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ABSTRACT

This report contains a May 1990 version of draft regulations for State oversight of California's private colleges, universities, and vocational schools, as well as the oral and written testimony regarding the regulations that the California Postsecondary Education Commission received during the summer of 1990. The draft regulations of June 11, 1990, are presented, including proposed regulations for approving degree-granting schools, and proposed regulations for non-degree granting private postsecondary vocational education institutions. In addition, the complete legislation of the Private Postsecondary and Vocational Education Reform Act of 1989 (California Education Code, Chapter 3, Part 59) is provided. Testimony (written and oral) of the presenters that was collected from two hearings held in June 1990 are also presented: this testimony is from an unedited taped version of those hearings. Likewise, the report reproduces the letters and other forms of written recommendations and comments as received. (GLR)

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PUBLIC TESTIMONY REGARDING PRELIMINARY DRAFT REGULATIONS TO IMPLEMENT THE PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION REFORM ACT OF 1989

HE 025 044

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

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Summary

Through Assembly Bill 1993 (1989, Farr), the Legislature directed the California Postsecondary Education Commission to work in cooperation with the State's new Council for Private Postsecondary and Vocational Education to prepare a preliminary draft of proposed regulations implementing the standards, procedures, and criteria of the Education Code dealing with the State's licensing of private degree-granting and vocational education institutions. Those sections of the Code were placed into law in 1989 through the passage of Assembly Bill 1402 (Waters) -- the "Maxine Waters School Reform and Student Protection Act of 1989" and Senate Bill 190 (Morgan) -- the "Private Postsecondary and Vocational Education Reform Act of 1989," which created the new Council.

In assigning to the Commission the responsibility of drafting preliminary regulations for the new Council's consideration, the Legislature intended to avoid, as far as possible, any undue delay in implementing the new law by providing a draft of regulations that the Council, with due consideration and revision, could adopt first as emergency regulations and later as formal rules. The Commission initiated the drafting process prior to the Council's formation on August 1, 1990, in order to allow the Council and other interested parties as much time as possible to consider special issues that may arise during the drafting process.

The Commission followed a six-step process in this drafting process: (1) developing a rough draft of sections of the regulations; (2) circulating these sections to small representative groups of college and vocational school administrators for their review; (3) meeting with these representatives for informal working sessions; (4) revising the draft regulations in response to their comments; (5) making the revised draft available to all interested parties in preparation for two public hearings; and (6) holding these hearings in June 1990.

This volume contains materials related to Steps 5 and 6 of that process. The Commission has assembled it for transmittal to the new Council, so that the Council may have access to the background discussions and especially the major concerns voiced by the participants in the public hearings.

Additional copies of the report may be obtained from the Library of the Commission at (916) 324-4991. Questions about the substance of the report may be directed to William K. Haldeman of the Commission staff at (916) 322-7991.

PUBLIC TESTIMONY REGARDING PRELIMINARY DRAFT REGULATIONS TO IMPLEMENT THE PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION REFORM ACT OF 1989

A Report in Response to Assembly Bill 1993
(Chapter 1324, Statutes of 1989)

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
Third Floor • 1020 Twelfth Street • Sacramento, California 95814-3985

COMMISSION REPORT 90-25
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Contents

TAB

Introduction 1

Draft Regulations of June 11, 1990 2

Proposed Regulations for Approving Degree-Granting Schools (Education Code 94310) 1

Proposed Regulations for Non-Degree Granting Private PostsecondaryVocational Education Institutions 17

Private Postsecondary and Vocational Education Reform Act of 1989 (California Education Code, Chapter 3, Part 59) 3

Hearing Announcement 4

Long Beach Hearing, June 21, 1990 5

Testimony of Presenters 1

Barbara Jean, World University 2
Charles Dalton, California Pacific University 2
Alvin Ross, Ryokan College 4
Ted Dalton, Newport University 6
Philip Forte, Pacific Western University 8
George Hare, Southern California Bible College 10
David Gamble, Linda Vista Baptist Bible College 11
Richard Bideau, Sierra University 13
George P. Evans, Berean Bible College, South Campus 15
John Kenney, August Vollmer University 17
Gary Linker, Pacific Graduate Institute, Santa Barbara 19
D. A. Babboni, Bethesda School of Theology 21
John Tamiazzo, World University 22

Gil Boyne, Hypnotism Training Institute of Los Angeles 23
Paul McGuirk, DeVry Institute of Technology 26
Karen Carlton, Romara Association 27
Larry McHarg, Real Estate Trainers 30
Bonnie Lee, Richards Beauty College 31
George Jump, Del Mar Media Arts 32
Ton Bui, MTI College in Orange 34
William Thompson, Behavioral Science Examiners 35
Dan Smith, The Higher Education Corporation 36

Written Testimony

Ted Dalton, Newport University
Gary R. Linker, Pacifica Graduate Institute
Paul R. McGuirk, DeVry Institute of Technology
Larry McHarg, Real Estate Trainers
Dan J. Smith, The Higher Education Corporation

Sacramento Hearing, June 26, 1990 6

Testimony of Presenters 1

Karen Murphy, Accelerated Career Training 2
Kathleen Callanan, Board of Behavioral Science Examiners 3
Rene Champagne, ITT Educational Services 6
Fran Ford, Shiloh Bible College 10
William O. Barrett, San Francisco Art Institute 14
Richard Crews, Columbia Pacific University 16
Chia Heng, Sangha & Leity Training Programs 22
Hsien Heng, Dharma Realm Buddhist University 24
Diane Davis, Committee on Dental Auxiliaries of the State Department of Consumer Affairs 28
John Emanuel, Western Graduate School of Psychology 28
Gary Pabst, More University 31
Nina Bouley-Naylor, Automotive Training Corporation of Northern California 34
Syin Heng, Dharma Realm Buddhist University 35
Fran Ford, Shiloh Bible College 35
John Zimmerman, MTI Western Business College 36
Jay Olins, California Association of Private Postsecondary Schools 38
Richard Crews, Columbia Pacific University 45

Written Testimony

- William O. Barrett, San Francisco Art Institute
- Kathleen Callanan, The Board of Behavioral Science Examiners
- Rene Champagne, ITT Educational Services
- Richard Crews, Columbia Pacific University

All Other Written Comments Received 7

- Marilyn Barth, Del Mar Media Arts
- Norman Bleicher, Samra University of Oriental Medicine
- Karen Carlton, Options Unlimited
- W. H. Draves, Sierra Horseshoeing School
- Philip Forte, Pacific Western University
- Louis Gutierrez, Casa Real, Inc.
- Lee Havis, International Montessori Society
- Warren Holman, Board of Registration for Professional Engineering and Land Surveyor, Department of Consumer Affairs
- Courts Oulahan, Attorney at Law, Washington, D. C.
- Rev. Rokuzan Kroenke, Shasta Abbey
- Alvin P. Ross, Ryokan College

Introduction

In 1989, through Assembly Bill 1993 (Farr), the California Legislature directed the California Postsecondary Education Commission to develop preliminary draft regulations for State oversight of California's private colleges, universities, and vocational schools, and to transmit these draft regulations to the new Council for Private Postsecondary and Vocational Education for its consideration when it assumes its responsibilities on January 1, 1991.

This volume contains a May 1990 version of these draft regulations, the 1989 Statutes that the regulations were designed to implement (Senate Bill 190 and Assembly Bill 1402), and the oral and written testimony regarding the regulations that the Commission received during the summer of 1990.

The Commission obtained oral testimony at two hearings held on June 21 in Long Beach and June 26 in Sacramento. This volume reproduces this testimony from an unedited taped version of those hearings. Likewise, it reproduces the letters and other forms of written recommendations and comments as received.

In addition to these oral and written comments, the Commission received considerable early advice from panels of experts convened in February and April of 1990. It used this advice in formulating the May draft regulations that were circulated in preparation for the June public hearings. Also, it received continuous informal help from a large number of interested people throughout California who have not been identified by name in this document. To all these named and unnamed contributors, the Commission wishes to express its sincere appreciation.

Proposed Regulations for Approving Degree-Granting Institutions (Education Code, Section 94310)

Article 1. General Provisions

100 Definitions

(a) "Course" means one organized subject or planned component of an academic instructional program, applicable to completion of the requirements for the degree program, prepared, conducted and evaluated by one or more faculty members. Usually a course is presented as a sequence of instructional or class meetings throughout an academic term scheduled by the institutional sponsor, but it may also consist of independent study projects, sequences of correspondence lessons, or other study projects approved beforehand and guided and evaluated by a faculty member.

(b) "Credit Unit" means a certain quantification of an individual's academic learning, a proxy for an actual measure of "amount" of learning. "Semester Credit Unit" means 15 hours of college level instruction or the equivalent in planned learning experiences, where the equivalency takes into account the American norm of two hours of study outside of class for each hour of instruction. "Quarter Unit" means 10 hours of college level instruction or the equivalent in planned learning experiences, where the equivalency takes into account the American norm of two hours of study outside of class for each hour of instruction. In considering equivalencies, the Council shall take into account the convention whereby laboratory, practicum or fieldwork learning entail twice the number of hours for credit as the standard classroom lecture-discussion.

(c) "Curriculum" means an organized set of courses and planned educational activities, each course of which contains learning objectives, an instructional methodology for pursuing these objectives, a description of the level and scope of knowledge and skills to be attained by the student and a strategy for evaluating the intended learning outcomes.

(d) "Degree-granting institution" means an educational institution organized to provide instructional and other educational services beyond the secondary educational level and to confer specific academic degrees to persons successfully completing its planned academic programs.

An educational institution founded or changing ownership after December 31, 1990 that uses in its official name the term "university" means that institution's structure includes at least three types of unit: (1) a college, school or division providing study of the arts and sciences at the undergraduate level; (2) an organizational unit such as a graduate division providing advanced (graduate) degree programs in the arts and sciences; and (3) one or more organizational units which provide professional degree programs beyond the baccalaureate level.

(e) "Degree program" or "Academic program" means the set of learning experiences, evaluations, and other academic requirements designed by an institution for the earning of a designated academic degree.

(f) "Prior experiential learning" means knowledge and skills acquired outside and prior to a particular formal postsecondary educational program.

(g) "Faculty" or "faculty member" means a person under current contractual obligation to the institution for conducting one or more of the courses or components in its curriculum. Faculty members bear responsibility as the primary guides of assigned students through the learning program, maintain scheduled availability for advising and consulting with individual students, and are accountable for evaluating student learning and progress. Whatever elements, media and resources may be marshalled for the educational experience in a program, it is the faculty member's responsibility to oversee that component or course and to evaluate its outcomes.

In this chapter, "faculty" does not include "adjunct faculty" which means one who agrees to be available to an institution as a resource for occasional presentations and interactions with its students and permits his/her name to be used by the institution on its roster.

(h) "Full-time faculty member" means one employed by an institution to provide at least 12 hours of instruction per week at the undergraduate level or at least 9 hours of instruction at the graduate level, or the equivalent in direct educational services.

(i) "Fees" means any charges to students for any and all services provided by the institution beyond the "tuition charges."

(j) "Full-time study" at the undergraduate level means enrolled for 12 or more semester units, or the equivalent in other credit units, and at the graduate level means 8 or more semester units, or the equivalent in other credit units, for courses ranked as graduate level.

(k) "General Education" means the set of courses and other organized educational activities designed to introduce the learner to the subject matter and the ways of pursuing it in each of the major divisions of formal learning. For academic purposes, this knowledge has traditionally been divided into the natural sciences, the social sciences, and the humanities, plus the verbal skills of writing and speaking and the quantitative skills of mathematical reasoning and computing.

(l) "Innovative methods" as used in Section 94310 (d)(2) of the code means any instructional mode described and used by an institution which is not covered under the definition in Section 104 of correspondence, distance, or classroom instruction.

(m) "Quarter" means a portion of an academic year made up of at least 10 weeks of instruction.

(n) "Semester" means a portion of an academic year made up of at least 15 weeks of instruction.

(o) "Term" or "term of instruction" shall mean a division of an institution's academic calendar (e.g., a quarter or semester within an academic year).

(p) "Tuition" means the charges for the cost of instruction.

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110 Applicability to Degree Programs Offered by Private Vocational Institutions

The degree programs of institutions with a majority of enrollments in vocational non-degree programs shall meet all the standards required of degree programs in nonvocational, degree-granting institutions.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(f), Education Code.

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120 Notification of Substantive Changes

Substantive changes in an institution must be reported to the Council in writing.

Those changes which require prior approval from the Council, for the institution to retain its State approval, include:

1. addition of a new degree or diploma program;
2. shift in financial control of institution of more than 25 percent;
3. change of name of institution;
4. change of purpose of institution;
5. change of ownership of institution;
6. change of principal address; and
7. addition of branch campus either inside or outside California.

The Council, through its director, shall respond to any approved institution which requests such prior approval within 15 working days after receiving the request.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(a), (i), 94330.

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130 Annual Report

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140 Substantial Relationship Criteria

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150 Processing Times

Article 2: Standards

200 Applicability of Standards

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201 Institutional Mission, Purpose, and Objectives

The institution shall develop a statement describing its mission, purpose, and objectives which differentiates it from other educational institutions. This statement shall include the educational outcomes which its programs are designed to produce, the types of students it serves, whether it is a for-profit or a non-profit corporation, and the levels of degrees and areas of specialization it offers. All aspects of the institution, including its name, size, programs, governance, faculty, physical and fiscal resources, shall be consistent with its stated purpose and with its description of itself in public documents.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(a), (b), Education Code.

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202 Governance and Administration

(a) The institution shall be incorporated, or owned by a corporation, in good standing with the California Secretary of State and shall be governed by a board of not less than five members. Continuity of board membership shall be provided by overlapping terms of appointment. The board shall be responsible for establishing policy, for long-range planning, for appointing and evaluating the performance of the chief executive, who shall not be a voting member of the board, and for maintaining the fiscal health of the institution.

(b) The institution shall demonstrate that the public interest is represented in its governance in either of two ways:

OPTION 1: Not less than twenty percent (20%) of the membership of the board of a for-profit institution shall be held by public members who have no financial involvement in the institution.

OPTION 2: There shall be an advisory committee of not less than five members who have no financial involvement with the institution and who shall be responsible for reviewing policies, budgets and operations of the institution and submitting any recommendations to the board in writing.

(c) The chief executive officer shall be directly responsible to the governing board for administering its policies and plans and for all other aspects of the institution's operations.

(d) The duties and responsibilities of each administrator shall be clearly defined in writing. The institution shall adopt and implement a personnel evaluation process which includes administrators at all levels.

(e) Multi-campus institutions. In an institution with one or more branch campuses, as defined in Section 94302 (h) of the Code, the board shall establish clear institutional policies regarding the division and sharing of responsibilities between the central administration and the administration of the branch campuses.

(1) The administration of each branch of the institution shall be organized and staffed to reflect the branch campus' purposes, size, and complexity. Administrative organization, roles and responsibilities shall be clearly defined.

(2) The central administration of an institution with a branch campus or other off-campus educational activities such as institution-sponsored study groups shall have a mechanism for quality control and accountability of its branch campus' operations.

(f) When contracting for educational services, the institution shall maintain control of and responsibility for all academic matters, such as instruction, student assessment and faculty appointments.

(g) Faculty participation in governance. The advisory role of faculty in the governance of the institution shall be substantive and clearly defined. The faculty shall have and exercise a voice in matters concerning the education program, student admission requirements, degree requirements, the hiring of faculty and other matters of institutional policy and practice that relate directly to their areas of responsibility and expertise.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(2), Education Code.

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203 Curriculum

(a) For each degree program offered, the institution shall develop and maintain a "curriculum," as defined in Section 100, appropriate to the level and type of degree to be granted. A list of the courses offered in each degree program together with a brief description of each course shall be published in the institution's catalog. The institution shall maintain a course outline for each course offered.

(b) The faculty, both individually and collectively, shall develop, evaluate and revise the curriculum. The institution shall adopt written policies governing the faculty's role and responsibilities in curriculum development and oversight.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(3), Education Code.

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204 Instruction

(a) The instruction of students, as defined in Section 94302 (g) of the Code, shall be the central focus of the resources and services of the institution. The institution shall demonstrate that the modes of instruction are appropriate to the subject matter and to the abilities, experience and needs of the students, and that they are effective in meeting the educational objectives of the institution.

(b) Modes of instruction. The Council recognizes three modes of instruction:

(1) Correspondence instruction: Instruction conveyed by postal mail or electronic means to students with assignments which upon completion are returned to the institution or individual faculty member for evaluation. Correspondence instruction does not require face-to-face interaction between faculty and student or between student peers.

(2) Distance instruction: Instruction conveyed to students usually at a distance from a campus by any of a variety of means under the guidance of an "instructor of record." Distance instruction shall incorporate and require periodic meetings between faculty and students and among student peers. For purposes of this section, "instructor of record" means that member of the institution's faculty assigned primary responsibility for the conduct of the course and the evaluating of student learning (grading) regardless of media and other resources used in its design.

(3) Classroom instruction: Instruction conveyed by a faculty member who is physically present with the students who are being instructed. This category includes, but is not limited to, instruction in a laboratory, lecture hall, or seminar setting.

(c) Supervision of instruction: For any student in an academic or professional degree program, not less than three faculty members of the institution shall provide the responsible oversight, guidance, instruction and evaluation entailed in progressing through the degree program prior to presenting that student to the administration as a candidate for the degree.

(d) An institution using an "innovative method of instruction," as defined in Section 100, shall provide upon request of the Council staff or members of the visiting team evidence bearing on the educational quality and accomplishment of the "innovative method of instruction" which demonstrates its effectiveness in meeting the educational objectives of the institution.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(4), Education Code.

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205 Faculty, including their qualifications

(a) The institution shall employ a teaching faculty of sufficient number and qualification to instruct its students. An institution shall be deemed to have a sufficient number of faculty if:

(1) its instruction is provided predominantly through classroom instruction and it maintains a ratio of full-time equivalent students to full-time equivalent faculty not larger than 25 to one; or

(2) its instruction is provided predominantly through distance instruction and it maintains a ratio of full-time equivalent students to full-time equivalent faculty not larger than 35 to one; or

(3) its instruction is provided predominantly through correspondence instruction and it maintains an average response time to its students of not greater than 6 days. As used in this criterion, response time means the time elapsed from the institution's receipt of a student's com-

pleted lesson to the mailing of the graded lesson to the student. Correspondence institutions shall maintain records that are adequate enough to enable the Council to audit the elapsed response time.

As used in (a)(1) and (2), number of "full-time equivalent faculty" means the number resulting from dividing by 12 (for faculty instructing at the undergraduate level) or by 9 (for faculty instructing at the graduate level) the average total number of actual faculty instructional hours per week.

As used in (a)(1) and (2), "full-time equivalent students" shall be that number resulting from dividing by 12 (for undergraduate students) or by 8 (for graduate students) the average total number of hours of instruction per week received by the institution's students.

(b) The criteria for determining faculty workloads shall be clearly stated and the faculty workload policy adopted by the institution's governing board. This policy shall consider at least the following workload factors:

1. class size;
2. number of subject-matter preparations;
3. contact hours;
4. nature of subject matter;
5. level and mode of instruction;
6. student advising;
7. assistance available; and
8. other institutional assignments.

(c) The faculty shall have graduate academic training and degrees and/or professional experience appropriate to their teaching assignments and consistent with institutional purposes. The highest degree in the academic discipline from an accredited institution is the primary evidence of appropriate training, but institutions may accept as a substitute exceptional experience or professional certification for up to 25 percent of the faculty in any one degree program.

(d) At least one-half of the faculty who supervise doctoral programs shall have all of the following qualifications:

1. a doctoral degree in the field of instruction from an institution accredited by an accrediting association recognized by the federal Department of Education or by the California State Bar;
2. three or more years of related field experience or research experience well beyond their own dissertation; and
3. current activity in their field of scholarship or profession.

(e) The institution shall demonstrate with evidence from its written policies and faculty assignments that it maintains a full-time and part-time faculty which is stable and sufficient to provide student advisement, academic planning, curriculum development, and institutional governance, as well as instruction. The institution shall demonstrate that at least 50 percent of all faculty hired are retained for at least two successive academic years.

(f) Criteria and procedures for faculty and staff appointment, retention, advancement, evaluation, termination, and due process shall be clearly written, published, available to all staff, reviewed periodically, and equitably administered.

(g) The faculty shall function as a collegial body, and it shall have some defined role in the screening of prospective new colleagues on the teaching staff.

(h) The institution shall have a non-discrimination employment policy consistent with institutional purposes.

(i) The institution shall have a written policy on academic freedom which is clearly stated, widely available, and actively followed.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(5), Education Code.

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206 Facilities

(a) The facilities, including buildings, heating and cooling, instructional equipment and campus environs shall be designed and maintained to serve the needs of the institution in relation to its stated purpose and objectives. Classrooms and laboratories shall be properly lighted and ventilated for their purposes and uses, properly equipped, and adequate in number and size.

(b) The facilities shall be well-maintained and shall conform to applicable legal requirements, especially those concerned with access, safety, and health.

(c) An institution which rents or is provided free instructional facilities shall document that the facilities are instructionally adequate and available for the duration of the degree program which they serve.

Authority: Section 94305(d), Education Code.
Reference; Section 94310(b)(6), Education Code.

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207 Financial Resources

The institution shall demonstrate that it has sufficient assets to ensure the continuity of its operations and programs and shall guarantee on the authority of its board the assets sufficient to ensure that all students admitted to its degree programs shall have a reasonable opportunity to complete their program and obtain their degree. A determination that the institution has "sufficient resources" shall be based upon, but not limited to, the institution's compliance with Section 94311.5 of the Code.

(a) For the purpose of the financial standard stated in Section 94311.5(b)(2), "current assets" does not include any of the following:

(1) intangible assets, including goodwill, going concern value, organization expense, start-up costs, long-term prepayment of deferred charges, and nonreturnable deposits; or

(2) state or federal grant funds that are held for future disbursement for the benefit of students. "Current liabilities" shall include unearned tuition.

(b) As used in Section 94311.5(b)(1), the term "assets" shall not include any item described in subsection (b).

(c) As used in Section 94311.5(b)(1), the term "liabilities" shall include tuition contracted and anticipated, not yet received.

(e) The institution shall maintain a record indicating that it has made timely refunds to students, as described in Section 94316.6(g) of the Code.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(i)(1)(A), Education Code.

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208 Administrative Personnel

(a) The institution shall not employ nor continue to employ any person found in a judicial or administrative proceeding to have violated any portion of the Act or of Section 480 of the Business and Professions Code.

(b) The chief academic officer of the institution shall hold an academic degree equal to the highest degree required of the faculty of the institution.

(c) The institution shall employ a sufficient number of administrative personnel with the appropriate expertise to support the achievement of its institutional goals and objectives and the operation of its instructional program.

Authority: Section 94305(d), Education Code.

Reference: 94310(a), (b), Education Code. Section 480, Chapter 2, Business and Professions Code.

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209 Educational Records

(a) For each student who enrolls, the institution shall maintain an educational records file which contains at least the following:

(1) Personal information about the student, including date of admission, date of awarding of the degree and age, gender and ethnicity (which the institution shall collect on a voluntary basis). If the student leaves the institution prior to completing a degree program, the institution shall record whether the student left the institution in good standing or was dismissed and the reasons for leaving, if known.

(2) Such official records of the student's prior educational achievements as submitted by the student including:

(A) evidence of high school completion or equivalency,

(B) transcript or record of all postsecondary courses for which transfer credit has been awarded,

(C) grades or findings from any examinations of academic ability, or educational achievement used for administration or placement purposes, and

(D) copies of portfolios and other materials employed in assessing prior experiential learning. The credit awarded for experiential learning shall be identified on the student's transcript with the course title for which it was awarded and shall carry the comment "Credit for Prior Experiential Learning."

(3) A current transcript of courses in which the student has enrolled with a record of the final grade received for each course. Each course in which the student enrolls and from which the student has not withdrawn prior to the deadline set by the institution shall be recorded on the student's transcript within fifteen (15) working days following the end of each term or, the end of the course, whichever occurs first.

(4) Course outlines or learning contracts of proposed independent study courses with the signatures of the institutional faculty and administrators approving the course.

(5) A record of the degrees, diplomas, certificates and dissertations, theses, and other student products submitted for the final phase of graduate programs shall be retained on file by the institution, signed by all members of the faculty committee which commended the student for graduation and shall be available for inspection.

Regardless of whether a given faculty signatory to a student's graduate degree remains on the faculty of the institution, the institution shall retain sufficient academic documentation on file concerning each faculty signatory to demonstrate to an inquirer that the faculty committee which examined the student candidate possessed sufficient expertise to perform that function adequately.

(b) Student educational records shall be included with the institution's current records which it shall maintain for a period of not less than five years at its principal place of business within the state of California.

(c) The institution shall maintain for 50 years for each enrolled student a file of educational records containing the student's transcript of courses and a record of the degrees, diplomas, certificates and honorary degrees and diplomas granted the student. In case of closure of the institution, the institution's custodian of records shall make provision for storage of the institution's educational records by transmitting all student transcripts to a third party, an institution, or to the Council as agreed to by the Council. A complete list of the students whose transcripts have been included in such a transmittal shall accompany the records. The list shall be organized for each year consecutively and alphabetically and shall include the year of admission, the year of graduation and the award received.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(8), Education Code.

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210 Tuition, Fees, and Refund Schedule

(a) In an institution's catalogs, public advertisements and statements to prospective students about costs of enrolling in its degree programs, use of the term "tuition," as defined in Section 100, shall not represent the total charge to be paid for an entire degree program. A presentation of total charges to the student shall include the term "tuition and fees," as defined in Section 100, and shall itemize separate fees and provide an estimate for books/supplies.

(1) The applicant institution shall publish its current rate of tuition in such a manner that a prospective enrollee can determine both the cost per term or year and the cost for the total program leading toward the degree or certificate, assuming that the enrollee completes each component of the total program without delays or repeats. The institution shall also publish the maximum percentage by which tuition or fees may be expected to increase for the following academic term or year.

(2) Where the enrollee anticipates "part-time" participation in the program, the information shall be sufficient for estimating both the length of time likely to be required for completion of the program and the consequent total of tuition costs.

(b) An institution which computes tuition on the basis of a fixed charge per semester unit attempted, or per individual course attempted, shall also show how such unit costs likely will eventuate in the total tuition charged for the degree program.

(c) Tuition rates, fees, and other student charges published in the catalog as of the date of a student's first enrollment in an institution for a specified degree program shall serve as the basis for computing total student charges for that individual as long as he/she remains continuously enrolled and progressing toward completion of the degree.

(d) The published catalog shall include the date of publication and the minimum period of time for which its information will remain valid, and a copy shall be provided to every student prior to his/her formal enrollment in any courses of the institution, as in Section 94312(h).

(e) Fees. The institution shall disclose all fees and fee-related policies, including the procedures to be followed by and with applicants and students. It shall provide copies of all such printed information with its application for licensure.

(f) Cancellation of Contract or Enrollment. A student or applicant may cancel the contract or enrollment by notifying institution personnel of that intention. Such notice is effective when delivered or when postmarked.

(g) Refund Policy. An institution approved by the Council shall comply with the refund standards as set forth in Section 94312(d) of the code. A "fair and equitable policy for the refund of the unused portion of tuition fees and other charges" shall mean:

(1) that an institution which is providing instruction primarily through distance learning has adopted a pro rata refund policy based on an assumed two-year degree program in which the total price, as specified in the catalog or contract, is multiplied by a fraction determined by a numerator that shall be the number of days elapsing between the time the student received his/her first course materials and his/her withdrawal; and the denominator which is 730 days.

(2) that an institution which has a fixed class schedule and charges tuition and fees on a term-by-term basis has adopted a refund policy that provides not less than the following refunds:

If withdrawal occurs:	Amount of refund is:
During the first 10 percent of scheduled classes per term	90 percent of term's tuition
During the first 25 percent of scheduled classes per term	75 percent of term's tuition
During the first 50 percent of scheduled classes per term	60 percent of term's tuition
After the first 50 percent of scheduled classes per term	No refund

(3) that an institution which provides instruction by correspondence has adopted a refund schedule that shall be the total price, as specified in the catalog or contract, multiplied by a fraction determined by a numerator that shall be the number of lessons remaining in a home study or correspondence course after the student's withdrawal; and by a denominator of the fraction which shall be the total number of lessons in a home study correspondence course.

(5) Instructional Materials. If there is to be any fee to a student or applicant for instructional materials under any circumstances whatever, the school must detail provisions, if any, for the return or recovery of the materials, and a specific price must be affixed to the items and clearly cited.

(6) Initial correspondence course materials shall be sent to the student within 7 days following receipt of student enrollment, or the student may rescind the contract and shall be entitled to full refund of all monies paid.

At any time during the enrollment period, a correspondence institution, upon written request shall send the balance of all course materials to any student who has paid in full for the course(s).

(7) In correspondence institutions, if cancellation is made prior to the 30th day after the student first received course materials, or prior to the date on which the institution received the first completed lesson, whichever occurs first, the student shall be entitled to 100 percent refund of amount paid for instruction.

(h) Fees Which Shall be Refunded. Fees which shall be refunded are:

(1) Any fee or charge collected in error shall be repaid in full.

(2) Any charges collected from a student which the institution holds for the purpose of paying to any other public or private person firm, organization, or agency, such as for a bond, license application or examination fees, or any similar fees or charges shall, where the student fails to enter the course or withdraws therefrom at any time prior to completion of the course, be refunded in full. Such charges are not subject to any refund if the institution has paid them prior to receipt of cancellation of a contract or enrollment.

(3) All prepaid but unearned fees and other charges paid by a student to the institution shall be refunded to the student if the institution cancels or discontinues the course or program for which the student has enrolled.

(i) Refunds to Veterans. A student enrolled under any federal or state veterans' education assistance plan may receive all the refunds of fees in accordance with the law or regulations under which the federal or state veterans' education assistance plan is operated, regardless of any limitation set forth in this section.

(j) The Council may, at its discretion, permit exceptions to an institution's refund policy upon the institution making application to the Council for such exception and detailing the reasons. After consideration by the Council, it may deny such exception, grant the exception, or order a suitable refund policy.

(k) If the institution retains a balance on a student's account when the student has completed the program for which contracted, the institution must return the balance to the student within 30 calendar days of the student's leaving the institution. It may not propose that the student "apply the balance toward the costs of" a subsequent program of study in the same institution.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(9), Education Code.

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211 Admission Standards

(a) The institution shall establish and maintain specific written standards for student admissions. Such standards shall be appropriate to the particular degree or certificate applied for, and sufficient to ensure that the student is qualified to undertake the proposed course of study.

(b) A high school diploma or its equivalent shall be required for admission to college degree programs.

(c) The institution shall disclose both in its catalog and in its application for licensure the level of language proficiency required students whose native language is not English and the kind of documentation of proficiency that will be accepted, for example the TOEFL system for the (U.S.) Foreign Service Language Rating system if any instruction will occur in language other than English.

(d) Admission of Transfer students. The institution shall specify the maximum transfer credit acceptable and the basis on which transfer credit will be awarded.

(e) Graduate and First Professional Degree Levels. As a rule, possession of a bachelor's degree shall be required for admission into post-baccalaureate degree programs. If the possession of a bachelor's degree is not required, the catalog must indicate clearly what will be accepted as equivalent accomplishment and on what evidence admission decisions will be based.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(a)(7), (b)(10), Education Code.

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212 Financial Aid Policies and Practices

(a) The institution shall disclose to its students its policies and practices with regard to any form of financial aid. If the institution's students will be eligible for any form of financial aid, those policies and practices shall:

(1) include counselling every student, upon first enrolling, concerning guaranteed loans and the attendant responsibilities and costs; and

(2) provide that any representations made to new or prospective students regarding the availability of financial aid regardless of the source of the aid shall be truthful and not misleading.

(b) The institution shall include with its application for approval or renewal of approval a copy of those policies and practices and the following information:

(1) whether its students, upon enrollment, become eligible for financial aid from State or federal sources;

(2) the current status of this institution with the California Student Aid Commission.

Authority Section 94305(d), Education Code.
Reference Section 94310(b), Education Code.

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213 Scholastic Regulations and Graduation Requirements

(a) For baccalaureate degrees, a maximum of 25 percent of the total degree program may be credited for prior experiential learning, provided that (1) the institution has developed an explicit rationale for the awarding of credit for prior experiential learning and that (2) the prior experiential learning has been analyzed in writing by the student, the student has not previously been awarded academic credit for this learning, and the institution has evaluated this learning for the possibility of assigning academic credit either by procedures developed by nationwide academic associations or by challenge examinations specific to the institution's own curriculum.

(b) A maximum of 75 percent of the total bachelor's degree program may be earned in other academic institutions, or through challenge examinations and standardized tests such as the College Level Placement Tests for specific academic disciplines, prior experiential learning or through any combination of such transfer, examination, and experiential learning credits.

(c) Graduation requirements shall include provisions for general education appropriate to the level and type of degree. At least one-fourth of the requirements for the associate degree and the bachelor's degree shall be in general education.

(d) For post-baccalaureate degree programs, institutions may credit specific prior experiential learning toward admission but not toward requirements for the degree.

(e) No more than six semester units (or the equivalent in quarter units) awarded by another institution may be transferred toward a master's degree. Beyond the master's degree no credit may be transferred.

(f) No more than 25 percent of the units required for graduate degree programs may be awarded for a final product such as a thesis, dissertation, or project.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(10), Education Code.

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214 Ethical Principles and Practices

(a) Institutional Promotion. The institution shall retain on file for a minimum of five years copies (print, audio, video of all advertisements) by which it represents itself to the public. These files shall be available to the site visit teams and any other representative of the Council.

(b) Payments to Faculty. No member of the faculty or enrolled student shall receive payment for recruitment of new students who enroll at the institution.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(13), Education Code.

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215 Library and Other Learning Resources

(a) The institution shall provide or make provision for the learning resources, including a library, needed to support each degree program it offers.

(b) The institution shall demonstrate that it has, and is able to maintain sufficient means for enabling students to pursue inquiries, searches for information and documentation, and assignments connected with their study programs, including resources such as reference works, periodicals, monographs and other information, media and equipment specific to the degree programs offered by the institution.

(c) For institutions that choose to depend for library resources primarily on collections and resources not in their possession, each institution shall: (1) employ the regular services of a professional librarian or information specialist, who shall provide support for faculty in curriculum matters and actively serve as resource guide for students, both undergraduate and graduate; (2) document that its students have access to the library collections and resources of another institution, organization or library and that such resources are located no more than 15 minutes travel time from the institution's premises or student's address.

(d) For research into special topics chosen by a student individually, the student shall bear any special expenses entailed by that choice, or negotiate about sharing such expense when proposing the research to the institution.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(14), Education Code.

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216 Student Activities and Services

(a) Any listing of major services provided to students shall be contained in the institution's catalog and shall be truthful and not misleading.

(b) Each institution shall provide, or offer to provide, some means by which its students in similar programs of study can convene as a study group if they so choose. The institution shall describe in its catalog the ways designed or provided to enable students to learn from one another.

(c) Any statement implying that the institution provides placement services, connections with potential employers, etc. must be elaborated in sufficient detail that a prospective enrollee can discern what specific placement services to expect on completing the program. For purposes of this section, the term "placement services" does not include activity limited to identifying and posting available positions in the student's special field, nor does an agreement to provide free a copy of the student's records to a specified number of potential employers constitute a "placement service" for graduates of the program.

(d) Foreign Student Services. An institution contemplating enrollees from other countries must specify in its representations and advertisements: (1) what English language services are provided and at what cost; (2) what visa services it will provide (or student status it will vouch for) and associated fee; and (3) whether courses are to be taught in languages other than English, and which languages.

(e) Living Accommodations. An institution must specify whether it has (1) dormitory facilities under its own control; or (2) expectations that the student will find affordable lodging near enough to be practicable, and at rates disclosed; or (3) no responsibility nor implied assistance for finding accommodations. It is not sufficient to specify, in promotional materials, that an institution's program is "nonresidential."

(f) The institution shall have a clearly stated policy on student rights including a procedure for addressing student grievances. This policy shall be published and given to the student upon admission to the institution.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(15), Education Code.

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217 Degrees Offered

(a) The institution shall maintain a written description of all the degree titles offered. The proposed degree titles shall not deviate substantially from those commonly used and traditionally accepted as a mark of learning in postsecondary educational institutions unless the institution clearly demonstrates that the proposed degree program covers a new field of learning. In addition to the general title, such as "Bachelor of Arts" or "Master of Science," the institution must list the major emphases ("majors") for which it intends to provide instruction under the general degree title. Such designations shall be descriptive enough to enable the Council to consider whether the faculty includes sufficient expertise enough to permit licensure for that special emphasis. For example:

A Bachelor of Science in Psychology should have sufficient rationale to distinguish its preparation from that of a Bachelor of Arts in Psychology. Further, the field of psychology is now divided into such a diversity of directions that one usually needs to know still more from the title/designation to make practical use of it. Does the degree holder have specialization, for example, in counseling psychology (therapeutic or of a guidance nature), experimental psychology, the psychology of human learning, educational psychology, industrial psychology, personnel psychology, or social psychology?

(b) For bachelor's and associate degree programs, the institution shall specify the distribution of General Education requirements by field, as in the following example:

Basic Communication/ Quantification	_ semester units
Humanities	_ semester units
Life Sciences	_ semester units
Physical Sciences	_ semester units
Social Sciences	_ semester units
American Government/ U.S. History	_ semester units

At least three semester units (or the equivalent in quarter units) shall be required in each field for a bachelor's degree program; at least two semester units (or the equivalent in quarter units) shall be required in each field for an associate degree program.

(c) In programs which explicitly depend on other postsecondary institutions to provide all general education required, the transfer of credits required shall occur prior to the student's beginning the final one fourth of the program as measured by total credit units.

(d) Degrees which imply preparation for licensure in, or acquisition of skills in, a direct practitioner-client therapeutic relationship, such as those licensed by the State through the Board of Behavioral Science Examiners, shall not be offered by means of Distance Learning or Correspondence.

(e) Doctoral programs shall not be offered by correspondence instruction.

(f) Programs leading to the Doctor of Philosophy (Ph.D.) degree shall include substantial instruction in both theory and research at advanced levels in a designated field and specialty.

A Ph.D. program shall consist of two or more phases; each of two phases shall include appropriate examination by a committee of three or more faculty members with expertise pertinent to the student's field of concentration. Approval of the first and the final phases shall be documented by the signatures of committee members.

For example, an initial phase may consist of studies under the committee's guidance concluding with their evalution of a student's research/dissertation proposal; the final phase may consist of the student's carrying out the proposed research and writing, followed by evaluation of the outcome by the committee members.

Regardless of its field or concentration, the Ph.D. shall continue to signify a preparation for scholarship and academic inquiry.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(b)(16), Education Code.

Article 3: Standards for Out-of-State Accredited Institutions Operating in California

300 Out-of-State Accredited Colleges and Universities

(a) An out-of-state accredited degree-granting institution which seeks approval under Section 94310(i) of the Code shall apply to the Council following the same procedures as institutions founded in this state and shall meet all the standards required of in-state institutions approved under Section 94310(a) and the standards and procedures set forth in Report 85-35 published by the California Postsecondary Education Commission titled, "Oversight of Out-of-State Accredited Institutions Operating in California" in March 1986, which is hereby incorporated by reference. The Council shall give due consideration to the accredited institution's stated institutional goals, purposes, and objectives in implementing both sets of standards.

(b) The review of the California operations of an out-of-state accredited institution shall include an assessment by a visiting team unless the State's review coincides with that of a regional accrediting team. In such case, the director may choose the alternative of sending one Council staff member to serve as a participating member of the accrediting team in lieu of empaneling a visiting team.

(c) The on-site visiting committee or council staff member which reviews an out-of-state institution with multiple sites in California shall visit at least one off-campus site for each degree program offered by the institution in California and shall visit no less than one half of all the sites in California at which the institution offers a degree program.

Authority: Section 94305(d), Education Code.

Reference: Section 94310(i)(4)(C), (D), and (i)(5) of the Education Code.

310 Application and Approval Process for Out-of-State Accredited Colleges and Universities

Article 4: Application and Approval Process

400 General Procedures

410 Application Content and Schedule

Any person wishing to operate a degree-granting institution under the Private Postsecondary Education Act of 1989, shall apply to the Council for approval. The institution's application shall contain or be accompanied by the following:

(a) the application fee;

(b) the name and address of the institution and its branch campuses;

(c) the status of the institution as a for-profit or non-profit corporation;

(d) the name, address, and telephone number of the owner or owners ("Owner" means any person who has a legal or equitable interest in 10 percent or more of an institution's stock or assets);

(e) a description of the institution in not more than 100 words, stating the institution's mission, the degree programs and other programs it offers, and the types of students it admits including a description of the level of educational preparation required for admission;

(f) an organization chart describing the governance and administrative structure of the institution and the place of the faculty in that structure. Accompanying the chart, a list with the name, address and telephone number of each member of the governing board, an indication of the financial involvement, if any, in the institution each member of the board has; and the name of the incumbent in each principal administrative position;

(g) the degree programs offered, or proposed to be offered, with the full title of each degree. For each degree program the application shall list the admission requirements, graduation requirements including the types and amount of General Education required, the title and description of the courses and components offered with an indication of the level of the courses (lower division, upper division, or graduate) and the mode of instruction;

(h) a description of the faculty's role in curriculum development procedures;

(i) for each degree program, the name, address, and telephone number of each full-time and part-time faculty member. For each faculty member listed, the application shall outline his or her educational background, including earned degree(s), field(s) of specialization, institution awarding the degree(s) and date(s) of conferral; teaching, research, and administrative experience; teaching assignment for the current year; and other current assigned duties;

(j) a description of the facilities serving the administrative and instructional needs of each degree program. Where appropriate, the application shall include building diagrams and campus maps to assist in locating these facilities, and indicate whether the buildings are owned, leased or rented short- or long-term, or used free of charge;

(k) a description of the types of educational records maintained, how they are organized, who is responsible for maintaining them, where they are stored (department and address), and what institutional policies govern the maintenance and safekeeping of these records;

(l) a complete list of current tuition and fees with an indication of which ones are refundable and which are non-refundable;

(m) a copy of the institution's refund policy indicating which of the institution's publications contain this policy;

(n) with applications for renewal, summary data about the number of students receiving financial aid, the types and sources of this aid, and the total amount by source which students received during the last 12 months;

(o) information about scholastic regulations and admission requirements (if not included in the catalog) including, but not limited to:

(1) admission requirements, including level of educational attainment and grade point average, entrance examinations;

(2) student assessment policies and practices including placement and language ability examinations required and grading policies;

(3) criteria, policies and procedures for awarding credit, if any, for prior experiential learning;

(4) attendance requirements for programs using the classroom instruction mode, and standard assignment schedules for distance learning and correspondence modes of instruction;

(5) grading policy and criteria for determining whether a student is making satisfactory progress toward a degree;

(6) policies regarding the acceptance of transfer credit, and credit by examination;

(p) summary of library holdings and other learning resources, including policies and procedures for supplying such if not maintained on site;

(q) any other information documenting compliance with the standards set forth in Sections 110 through 120 of this subchapter;

(r) the catalog and other information required by Section 94330(a) of the Code.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(a), (i), Education Code.

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415 Provision of Information During Site Visit

The institution shall make available for inspection by the site-visit team such files and records as delineated by the Council.

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420 Visiting Committee Composition

(a) A visiting committee shall be appointed by the Council's director from a Council-approved list of prospective committee members in consultation with the institution. The director shall appoint one of the committee members to serve as the committee's chairperson, whose duties shall be to lead the committee and, with the cooperation of the other committee members, prepare the committee's evaluation report and recommendations. Prior to appointment to an institution's visiting committee, each prospective member shall participate in a training session organized by the Council for the purpose of familiarizing committee members with the applicable statutes, regulations and Council procedures.

(b) The visiting committee shall be comprised of not less than three (3) nor more than seven (7) appointed members. Within these limits, the Council's director shall take into consideration the number and diversity of degree programs offered by the institution. The membership of the committee shall include expertise in the degree programs areas and methods to be evaluated.

(c) The Council's director shall assign one or more Council staff members to assist the committee.

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430 Duties of the Visiting Committee

The duties of the visiting committee shall include:

(a) a comprehensive on-site review of all aspects of the institution's operations to determine whether the institution is in compliance with the requirements of the Private Postsecondary and Vocational Education Act applicable to an institution applying for approval under Section 94310 of the Act and with the Council's regulations; and

(b) the preparation of a written evaluative report summarizing its findings regarding its assessment of each degree program and the institution as a whole. This report shall include (1) committee findings regarding the institution's compliance with Chapter 3 of Part 59 of the Education Code; and implementing regulations; (2) the committee's recommendation for granting or denying the approval of each degree program offered by the institution, and (3) the committee's recommendation for granting or denying the approval of the institution as a whole, including the length of time for which approval should be granted, and any conditions upon which approval should be based.

(c) Both in the case of an institution seeking reapproval and in the case of a new institution seeking candidate for approval status, the committee may recommend the disapproval of particular degree programs while recommending approval of the remainder of the institution.

(d) The committee's on-site visit shall take place within 90 State working days of the Council's receipt of the institution's completed application unless by mutual agreement between the director and the institution's executive officer a later date is set. The length of the full committee's on-site visit to the main campus or administrative center shall be two or three days depending on the size and complexity of the institution. Depending upon the size, complexity, number of branch campuses and location of these branches within or outside the State, the director may propose and the Council require additional days for visiting other sites of the institution by individual members of the committee or Council staff.

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440 Reimbursement of Site Visit Expenses

(a) The institution shall reimburse the Council for the committee's costs in conducting the on-site visit at rates not to exceed those used by the State for reimbursing State employees on work travel assignment (per diem plus transportation). Reimbursable items include cost of travel, hotel/motel expenses, and meals of the visiting committee and Council staff. No later than thirty (30) calendar days prior to the visit, the director shall submit to the institution an estimated cost of the visiting team and the institution shall pay by certified check a deposit of ninety percent (90 percent) of the estimated cost ten (10) State working days prior to the visit. Failure to remit this deposit by the deadline may be cause for the director to cancel the visit and to require the institution to submit a new application and application fee.

(b) Within ten (10) State working days following the conclusion of the visit to the institution and all scheduled branches, the director shall provide the institution a statement of actual expenses of the visiting committee. If the deposit was greater than the expenses incurred by the committee, the Council shall remit any unused funds from the deposit within twenty (20) working days following the visit. If the costs exceeded the amount of the deposit, the institution shall be responsible for remitting the balance within ten (10) State working days after receiving the statement of expenses.

Authority: Section 94305(d), Education Code.

Reference: Section 94310(a), (d)(1), (i), 94305(j), Education Code.

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450 Action by Council

Within 90 State working days following the Committee's visit, the Council shall take action on the institution's application, after considering the Committee's recommendations and any other pertinent information available to the Council.

Authority: Section 94305(d), Education Code.

Reference: Section 94310, Education Code.

Article 5: Renewal

500 Expiration of Candidate for Approval Status

No later than 120 calendar days prior to the expiration date of an institution's candidate for approval status under Section 94310 of the Code, the institution shall submit a complete application for approval, accompanied by the fee specified by the Code.

Authority: Section 94305(d), Education Code.

Reference: Section 94310, Education Code.

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510 Renewal of Approval

No later than 180 calendar days prior to the expiration of its approval, an institution shall apply for renewal on forms prescribed by the Council.

Authority: Section 94305(d), Education Code.

Reference: Section 94310, Education Code.

Article 6: Probation/Revocation of Approval

600 Conditions and Procedures for Probation

(a) When the Council finds that an institution is not complying with the standards for approval, the institution shall be notified in writing by the director. If the noncompliance appears sufficient to warrant probationary status or revocation of approval, the director shall issue a warning to the institution, citing the specific areas of non-compliance.

(b) Upon receiving notice of non-compliance, an institution may request a hearing before the Council; such hearing shall then be set to occur no sooner than 14 calendar days nor later than 60 calendar days following receipt of the institution's written request. Both the institution and the Council staff may present information and testimony at this hearing.

If, on receiving notice of non-compliance, the institution elects to make the stipulated changes that would bring it again into compliance without a hearing, the director shall set an appointment at which time a member of the Council staff will visit the institution for fact-finding regarding the matter in question. The institution, the Council chair, or the director may request a member of the Council also to participate in this visit, or a consultant with specified expertise.

(c) After the hearing or the fact-finding visit or both (at the Council's discretion it may require a visit after a hearing), within 10 days the director shall submit recommendations in writing to the Council, and the Council through its director shall inform the institution of its pending or interim status. If the particular matter of non-compliance reasonably requires more time to correct, the Council may require a second compliance verification visit. In any case, however, the Council shall render judgment about compliance or non-compliance by the institution after no more than 180 calendar days from when the institution received notification of the problem.

(d) When the Council renders a judgment that an institution remains non-compliant, after notification and due process as described above, approval of the institution is withdrawn immediately upon notification.

The certificate (or license) of approval is the property of the State of California and is to be surrendered by the institution upon termination of approval. If such termination occurs, the institution must delete references and claims concerning approval from catalogs, advertising and promotional materials within ten days from notification.

(e) In no case shall the Council be bound to allowing an institution 180 calendar days before judging it in non-compliance; but in instances of false or misleading advertising it especially shall render prompt judgment and notification.

(f) Upon notification that an institution's approval has been withdrawn by official decision of the Council, that institution is barred from receiving tuition and fees, as well as from awarding degrees and certificates, for postsecondary educational programs.

(g) If the Council finds that the first charges of non-compliance are not substantiated, it may direct that all notations and correspondence on this matter be deleted from the institution's file and record with the State.

Authority: Section 94305(d), Education Code.
Reference: Section 94310(e), Education Code.

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610 Emergency Action

Article 7: Transfers of Ownership

710 Application Requirements

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720 Review Process

Proposed Regulations for Non-Degree Granting Private Postsecondary Vocational Education Institutions

Article 1. General Provisions

1000 Definitions

1005 Notification of Substantive Changes

An institution shall report a substantive change to the Council no later than 60 calendar days before the change is to take effect and shall obtain the Council's approval for such a change. For purposes of this section, a "substantive change" includes any:

(a) addition of a diploma or certificate program;

(b) change of ownership as described in Section 4330(f) and (i) of the Code;

(c) change of name or mission of the institution;

(d) change of address of administrative offices or instructional sites; and

(e) addition of a branch campus either inside or outside California.

1010 Annual Report

An institution shall file one annual report by July 1 of each year, which contains all of the following information for educational programs offered in the prior 12 months:

(a) The information specified in Section 94312.2 and Section 94316.14 (if applicable) of the Code;

(b) The total number of students currently enrolled in each diploma or certificate program; and

(c) The number of diplomas or certificates issued.

Article 2. Standards

1100 Applicability of Standards

A private institution wishing to offer postsecondary vocational or technical training in California shall demonstrate its compliance with the standards set forth in this subchapter, in addition to those set forth in the Code, in order to obtain and maintain the Council's approval to operate.

1110 Program Objectives

The institution shall have on file and available for inspection by the Council its objectives, in writing, for each program it wishes to offer. These objectives shall be specific enough to distinguish the institution's several programs from each other, and shall describe the types of occupations or employment for which a program is intended to prepare the student.

1120 Course Syllabus

The institution shall have on file and available for inspection a complete syllabus for each course or learning component in the program. The course syllabus shall include at a minimum the following elements:

(a) short descriptive title;

(b) brief statement of aims and list of educational objectives for this particular course;

(c) designation of the relative level of sophistication of this course or component, (e.g., introductory, advanced, journeyman, practitioner-development, etc.);

(d) length of the course or sequence, and frequency of lessons or class meetings;

(e) textbook and/or other required materials (complete citations);

(f) sequential outline of subject matter to be addressed, which consists of more than a topical outline from the textbook to be employed, or a list of competencies to be learned and how those competencies are to be measured;

(g) instructional mode or methods;

(h) bibliography, specific to subject-matter, for further inquiry and learning;

(i) proportion of program which can be satisfied/fulfilled by satisfactory completion of this course; and

(j) instructor currently assigned to teach/oversee course.

1130 Instructors

(a) Each instructor shall possess at least one of the following:

(1) a bachelor's degree in the field in which he or she is to teach from an institution of higher learning or an advanced degree from such an institution;

(2) a valid adult or secondary school teaching credential or certificate from this or another state authorizing the holder to teach in the field of instruction in which he or she is applying for approval;

(3) five years of successful direct experience in the profession, trade, industry, or technical occupation in the field in which he or she is to teach;

(4) five years of a combination of such experience and education at the postsecondary level; and

(5) possession of a license to teach issued by an appropriate state licensing board or federal agency for the field in which he or she is to teach;

(b) The institution shall retain on file the documentation by which it determined that an instructor qualifies under subsection (a) above and the following documentation:

(1) official copies of original copies of transcripts (i.e., bearing the embossed seal or emblem of the originating institution);

(2) letters from employers as may be appropriate to the experience claimed; and

(3) copies of current evaluations and findings concerning the work performance of the instructor at this institution;

(4) notation of any legal actions pertinent to professional interaction of this instructor with clients of the institution.

A resume shall not be regarded as documentation of education, training, or experiences.

(c) The institution shall have and describe a process for regularly evaluating the performance and effectiveness of each member of its teaching faculty, including his/her means for staying abreast of the field and specialty being taught.

1140 Student Records

(a) The institution shall maintain a file for each student whether or not the student completes the program or withdraws from the institution prior to completion of any of its programs. This file shall include at least the following:

(1) written records and transcripts of such formal education, training and entrance examinations as may pertain to the qualifications for admission to this institution;

(2) copies of any contracts with this student as client, both financial and learning contracts showing what the institution has agreed to provide for fees paid;

(3) current transcript for this institution showing courses attempted, completed, and the grades or evaluations received; and

(4) copies of any official advisory notices (warnings) about the student's progress.

(b) All student files shall be open to inspection by the Council and its designated committees, and shall be retained by the institution for a minimum of ten years. In case of closure of the institution, the institution's custodian of records with the approval of the Council shall make provision for storage of the institution's educational records by transmitting all student records to a third party, another institution, or to the Council. A complete list of the students whose transcripts have been included in such a transmittal shall accompany the records and a copy of the list shall be sent to the Council. The list shall be organized alphabetically by year and shall include the year of admission, the year of termination and the award received.

(c) The institution shall retain back-up files in a second location for the same period of time, unless the original files are maintained in a fire proof storage facility.

1150 Permits

The institution shall maintain a list of all permits required by public agencies relative to the health and safety of those using its premises/facilities, such as fire and sanitation codes, and shall have on file for inspection all current permits.

1160 Catalog Requirements

In addition to the information required by Sections 94312(h) or 94316.10(a)(4), if applicable, of the Code, the catalog, any addenda thereto or brochure given to each prospective student before enrollment shall contain at least the following elements:

(a) grading policy;

(b) standards of individual conduct;

(c) student complaint procedure which complies with Section 1175; and

(d) time period for which this edition of catalog/brochure is valid.

1170 Monitoring Student Progress

The institution shall maintain, enforce, and disclose a policy for monitoring the progress of each student through successive stages of its programs, including individual consultations.

1175 Student Complaint Procedure

Article 3. Approval Process

1200 Application Content

A private institution wishing to offer vocational or technical training in California shall apply to the Council for approval. The institution's application shall contain or be accompanied by the information set forth below. It shall also be accompanied by the fee prescribed by the Council.

(a) The name and address of the institution.

(b) The form of ownership; i.e., sole proprietorship, general or limited partnership, for-profit corporation, or nonprofit corporation.

(c) The name, address, and telephone number of the owner or owners. For purposes of this section, "owner" means any person who has a legal or equitable interest in 10 percent or more of an institution's stock or assets.

(d) The place or places where instruction will be given or other services will be provided.

(e) Information/documents required by Sections 94312 and 94330(a) and (b) of the Code.

(f) A description of the institution in approximately 100 words, stating its mission, the types of training and instruction it offers or proposes to offer, the types of students it admits and the level of educational preparation required for admission. Applications for renewal shall indicate in addition, the total number of students enrolled at the time the application was submitted and the number of certificates awarded (by occupational field) during the last 12 months.

(g) An organization chart describing the governance and administrative structure of the institution, along with a brief written job description for each position, and showing relation of faculty to administrative positions. List the name, address and telephone number of each member of the governing board, if applicable, and indicate what, if any, financial involvement each member of the board has in the institution.

(h) The general and specific fields of instruction offered, or proposed to be offered, and the purposes of such instruction.

(i) The name, address, and telephone number of each full-time and part-time faculty member.

(j) The physical facilities and equipment serving or proposed to serve the administrative and instructional needs of each occupational specialty and an explanation of their appropriateness for that field of training. Where appropriate, provide building diagrams and campus maps to assist in locating these facilities. Indicate whether the buildings are owned, leased or rented short- or long term, or used free of charge.

(k) A description of how educational records are organized, or proposed to be organized, and who is responsible for the records, where the records are stored (department and address) and what institutional policies govern the maintenance and safekeeping of these records.

(l) A complete list of tuition and fees with an indication of which are refundable and which are nonrefundable. Provide a copy of the institution's refund policy and indicate which of the institution's publications contain this policy.

(m) Applications for renewal shall include summary data about the number of students receiving financial aid, the type and sources of this aid, and the total amount by source which students received during the last 12 months.

(n) Scholastic regulations including, but not limited to:

(1) Admission requirements, including level of educational attainment and grade point average, entrance examinations;

(2) Student assessment policies and practices including placement and language ability examinations required and grading policies;

(3) Criteria, policies and procedures for awarding credit for experiential learning; and

(4) Attendance requirements for programs using the classroom instruction mode and standard course assignment schedules for distance learning and correspondence modes of instruction.

(o) Summary of library holdings, services and other learning resources, including policies and procedures for supplying such to distance instruction students.

(p) Summary of student services, including provisions for academic counseling, textbook purchases, and job placement.

Authority: Section 94305(d), Education Code.
Reference: Section 94311, Education Code.

1210 Expert Advisors

To provide special expertise in the review of a vocational institution, the Council director may augment the Council staff's review by appointing one or more expert advisors from a Council-approved list to examine the institution. The expenses of such advisors shall include an honorarium of $350 per day plus travel which shall be reimbursed by the institution as provided in Section 1230.

1220 Duties of the Expert Advisors

The advisors shall evaluate those aspects of the institution and its operations which the Council director identifies as requiring expert review and shall provide a written report to the Council no later than 10 calendar days following the date of the review.

1230 Reimbursement of Expert Advisors

The institution shall reimburse the Council for the Council's costs incurred in engaging an expert advisor. The total reimbursement shall include the advisor's honorarium and travel costs. The rate of reimbursement of travel costs shall not exceed those used by the State for reimbursing state employees on travel status.

1240 Processing Time

(a) Within 30 calendar days after receipt of an application for approval, the Council shall notify the institution in writing either (1) that its application is complete and accepted for filing or (2) that it is deficient and requires specific information or documentation to complete the application. An application is considered "complete" if it contains all the information and documentation required by Section 1200 of these regulations.

(b) Within 180 calendar days from the date of filing of a completed application, the Council shall inform the institution in writing of its decision regarding the application.

Article 4. Renewal

1300 Expiration of Candidate for Approval Status

No later than 120 calendar days prior to the expiration date of an institution's candidate for approval status under Section 94311 of the Code, the institution shall submit a complete application for approval, accompanied by the fee specified by the Code.

1310 Renewal of Approval

No later than 180 calendar days prior to the expiration of its approval, an institution shall apply for renewal on forms prescribed by the Council.

Article 5. Transfers of Ownership

1400 Application Requirements

In accordance with Section 94330 of the Code, application shall be made on forms prescribed by the Council for any change in ownership of an institution approved by the Council. The application shall contain or be accompanied by the following:

(a) The fee required by the code.

(b) The name and address of the institution.

(c) The name and address of each current and proposed owner and statement of the percentage of ownership held by each person.

(d) A current financial statement showing all assets and liabilities of the institution.

(e) A statement from all the proposed owners, certified under penalty of perjury, of how the institution will operate under the new ownership, including financial operation of the institution.

(f) A statement under penalty of perjury as to whether any proposed owner has been previously found in any judicial or administrative proceeding to have violated the Act, or has committed any act which would be grounds for denial as specified in Section 94330(g) of the Code.

1405 Review Process

Article 6. Certificates of Authorization for Service

1500 Definitions

For purposes of this article:

(a) "Certificate of authorization for service" means a written, nontransferable document issued by the Council authorizing an individual to be an instructor or administrator in any private postsecondary vocational education institution in California which is approved or has candidate-for-approval status under Section 94311 of the Code.

(b) "Instructor" means the designated individual who is responsible for the routine operation of a course including the presentation of a planned curriculum.

(c) "Administrator" means any owner or staff member of an institution who has responsibility for managing or supervising the operations, planning, research, personnel, financial operations or student financial aid functions of the institution.

1510 Application Process

Every instructor at and administrator of a private postsecondary educational institution in California shall apply to the Council for a certificate of authorization for service.

Private Postsecondary and Vocational Education Reform Act of 1989

(California Education Code, Chapter 3, Part 59)

Senate Bill 190

Article 1. General Provisions

94300. This chapter shall be known and may be cited as the "Private Postsecondary and Vocational Education Reform Act of 1989."

94301. It is the intent of the Legislature to promote the effective integration of private postsecondary education into all aspects of California's education system and to foster and improve the educational programs and services of these institutions while protecting the citizens of the state from fraudulent or substandard operations.

It is further the intention of the Legislature to recognize the enormous diversity of California's private postsecondary educational enterprise, with its approximately 3,000 privately supported institutions of academic and vocational education.

It is further the intent of the Legislature to provide for the protection, education, and welfare of citizens of California, its postsecondary educational institutions, and its students by providing for all of the following:

(a) Ensuring minimum standards of instructional quality and institutional stability for all students in all types of institutions, and thereby encourage the recognition by public and private institutions of completed coursework and degrees and diplomas issued by private institutions, to the end that students will be provided equal opportunities for equal accomplishment and ability.

(b) Establishing minimum standards concerning the quality of education, ethical and business practices, health and safety, and fiscal responsibility to provide protections against substandard, transient, unethical, deceptive, or fraudulent institutions and practices.

(c) Prohibiting the granting of false or misleading educational credentials.

(d) Prohibiting misleading literature, advertising, solicitation, or representations by private educational institutions or their agents.

(e) Recognizing the importance of providing adequate funding to support the state's activities in implementing this chapter.

(f) Protecting the consumer and students against fraud, misrepresentation, or other practices which may lead to an improper loss of funds paid for educational costs, whether financed through personal resources or state and federal student financial aid.

(g) Establishing a path for the development of institutions offering fields of study or methods of instruction not previously recognized in order to encourage them to become fully approved institutions.

(h) Recognizing and encouraging quality nongovernmental accreditation, while not ceding to that or any other nongovernmental process the responsibility for state oversight for purposes of approval if the accreditation process fails either to protect minimum standards of quality or to acknowledge legitimate innovative methods in postsecondary education.

(i) Establishing an administrative agency staffed by individuals who are knowledgeable about private academic and vocational education, and charged with the responsibility of developing policies and procedures for the oversight and approval of private postsecondary and vocational education, including the responsibility for managing a broadly construed policy and planning process that seeks to improve state accountability for private postsecondary and vocational education as well as to improve the articulation of private postsecondary and vocational education with the general postsecondary and vocational educational community. It is the intent of the Legislature that current employees of the Private Postsecondary Education division of the State Department of Education shall be covered by Section 19050.9 of the Government Code during the establishment of the new administrative agency. This new body should provide the leadership and planning needed to maintain and develop a strong private sector of this community.

94302. As used in this chapter, unless the context requires otherwise:

(a) "Accredited" means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education, or the Committee of Bar Examiners for the State of California. It shall not include those institutions that have applied for accreditation, or are identified by accrediting associations as candidates for accreditation or have provisional accreditation.

(b) "Agency" means a business entity established for the purpose of recruiting students for enrollment in a private postsecondary or vocational school, as defined in this chapter, and any other business entity engaged in that activity with the exception of the educational institution itself.

(c) "Agency approval" means a written document issued by the Council for Private Postsecondary and Vocational Education authorizing a business entity or an institution to engage in the recruitment of students for enrollment in private postsecondary and vocational institutions approved under this chapter.

(d) "Agent" means any person who, at a place away from the institution's premises or site of instruction, for consideration, solicits, promotes, advertises, offers, or attempts to secure enrollment for an institution, refers any person to an institution either for enrollment or to receive a solicitation for enrollment, or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances, but whose primary task does not include service as a paid recruiter, are exempted from this definition.

(e) "Agent's permit" means a nontransferrable written document issued to an agent pursuant to the provisions of this chapter by the Council for Private Postsecondary and Vocational Education.

(f) "Applicant" means a new institution that has submitted an application but has not been evaluated by the council. An applicant institution shall not enroll students or offer educational services.

(g) "Approval" or "approval to operate" means that the council has determined and certified that an institution meets minimum standards established by the council for integrity, financial stability, and educational quality, including the offering of bona fide instruction by qualified faculty and the appropriate assessment of students' achievement prior to, during, and at the end of its program. It is the intent of the Legislature that the minimum standards for approval for degree granting institutions established by the council shall not exceed the accreditation standards adopted by the Western Association of Schools and Colleges.

(h) "Branch campus" means any campus, satellite facility, extension classroom, office, or location affiliated with an educational institution, other than the main campus or primary administrative location of the institution, in which students complete, while in residence, all or any part of a program of instruction.

(i) "Candidate" or "candidate for approval" means that a new college or university has been evaluated by the council and is found to comply with the council's minimum standards.

(j) "Certificate of authorization for service" means a written, nontransferrable document issued by the council authorizing an individual to be an instructor or administrator in any private vocational educational institution in California which is approved under subdivision (a) of Section 94311.

(k) "Correspondence school" or "home study school" means any institution that provides correspondence lessons for study and completion by a student at a location separate from the institution, including those institutions which offer that instruction by correspondence in combination with in-residence instruction.

(l) "Council" means the Council for Private Postsecondary and Vocational Education established pursuant to Section 94304.

(m) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(n) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level.

(o) "Education," or "education services," or "educational program" includes, but is not limited to, any class, course, or programs of training, instruction, or study.

(p) "Institutional approval" means an institution that has been evaluated by the council and has been found to be in compliance with the council's standards.

(q) "Instruction" includes any specific, formal arrangement by an institution or its enrollees to participate in learning experiences in which the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(r) "Out-of-state school" means any private postsecondary or vocational educational institution offering career or job training programs, including both an in-residence institution and a home study institution which has its place of instruction or its principal location outside the boundaries of the state, or which offers or conducts courses of instruction or subjects on premises maintained by the school outside the boundaries of the state, or which provides correspondence or home study lesson materials from a location outside the boundaries of this state, or which evaluates completed lesson materials or otherwise conducts its evaluation service from a location outside the boundaries of this state, or which otherwise offers or provides California students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of the state.

(s) "Private postsecondary educational institution" or "institution" means any person, firm, association, partnership, or corporation doing business in California by offering to the public for a tuition, fee, or other charge, instructional or educational services or training in any academic, technical, professional, mechanical, business, or industrial occupation, either in the recipient's home, at a designated location, or by mail.

(t) "Private vocational educational institution" means any person, firm, association, partnership, or corporation doing business in California by offering to the public, for a tuition fee, or other charge, career or job training programs in any technical, professional, mechanical, business, or industrial occupation, and issuing diplomas or certificates to individuals who complete that program. The following are not considered to be private postsecondary or vocational educational institutions under this chapter:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the 12th grade.

(2) Education solely avocational or recreational in nature, and institutions offering this education exclusively.

(3) Education sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

(4) Postsecondary or vocational educational institutions established, operated, and governed by the federal government or by this state, or its political subdivisions.

(5) A nonprofit institution owned, controlled, and operated and maintained by a bona fide church or religious denomination if the education is limited to instructions in the principles of that church or denomination and no degree is awarded by the institution as a product of that institution.

(u) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(v) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, or from or through which, educational services are offered or educational degrees or diplomas are offered or granted.

94303. Articles 1.5 and 2 of this chapter, subdivision (c) of Section 94320, and Sections 94322, 94330, 94330.5, 94331, 94331.5, 94334, 94338, 94342, 94343, 94343.2, and 94343.5 shall not apply to institutions which are accredited by the Western Association of Schools and Colleges and are either (1) incorporated and lawfully operate as nonprofit public benefit corporations pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and are not managed or administered by any entity for profit, or (2) exclusively confer degrees upon the completion of a course of study of two or more years. Within 30 days of any action by the Western Association of Schools and Colleges which establishes, reaffirms, or publicly sanctions the accreditation of a private institution operating in the state, the association shall notify the council of that action, and provide a copy of any public statements regarding the reasons for sanctions.

Article 1.5. Administration

94304. (a) There is hereby established in state government a Council for Private Postsecondary and Vocational Education whose members shall be appointed no later than July 1, 1990. Commencing January 1, 1991, the council shall have the responsibility for approving and regulating private postsecondary and vocational educational institutions and for developing state policies for private postsecondary and vocational education in California. The council shall represent the private postsecondary and private vocational educational institutions in all state level planning and policy discussions about postsecondary and vocational education, and shall have as its objective the development of a strong, vigorous, and widely respected sector of private postsecondary and vocational education.

(b) The council shall be composed of 15 voting members, including the following representatives:

(1) Two representatives from private degree granting institutions approved under Section 94310.

(2) Two representatives from vocational institutions approved under Section 94311.

(3) Two representatives from accredited private postsecondary institutions operating in California, one from an out-of-state accredited degree-granting postsecondary educational institution, and one from an accredited vocational institution.

(4) A representative of the California Student Aid Commission, nominated by the executive director of the commission, and appointed by the Governor.

(5) The Superintendent of Public Instruction, or his or her designee.

(6) The Secretary of State and Consumer Services, or his or her designee.

(7) Six members of the general public.

(8) The appointment process for the council shall be as follows:

(A) The Governor shall appoint one representative from an institution approved under Section 94310, one representative from a vocational institution approved under Section 94311, one representative from an accredited vocational school, and three members from the general public.

(B) The Senate Rules Committee shall appoint one representative from an institution approved under Section 94310, one representative from an out-of-state accredited degree granting college or university operating in California, and one member of the general public.

(C) The speaker of the Assembly shall appoint one representative from a vocational institution approved under Section 94311, and two members of the general public.

(D) The institutional representatives shall be appointed from a list or lists of persons nominated by private postsecondary or vocational educational institutions.

(9) In addition, the following shall serve as nonvoting ex officio members of the council:

(A) The Attorney General of the State of California, or his or her designee.

(B) The Director of the Department of Employment Development, or his or her designee.

(C) The Director of the California Postsecondary Education Commission, or his or her designee.

(D) The Director of the Youth, Adult, and Alternative Educational Services Division of the State Department of Education, or his or her designee.

(E) The Chancellor of the California Community Colleges, or his or her designee.

The members shall each serve a four-year term, and no members shall serve more than two full terms.

No person who is employed by an institution of public or private postsecondary or vocational education shall be appointed to or serve on the council as a member of the general public.

It is the intent of the Legislature that the members of the general public appointed to the council have a strong interest in developing private postsecondary and vocational education, and include representation from businesses that employ persons in positions requiring academic, vocational, or technical education.

(c) It is the intent of the Legislature that the council shall be broadly and equitably representative of the general public and that it include adequate representation on the basis of gender and on the basis of the significant racial, ethnic, and economic groups in the state. No person appointed pursuant to this section shall, with respect to any matter before the council, vote for or on behalf of, or in any way exercise the vote of, any other member of the council.

(d) The council shall meet as often as it deems necessary to carry out its duties and responsibilities. Any member of the council who in any calendar year misses more than one-third of the meetings of the full council forfeits his or her office, thereby creating a vacancy.

(e) The council shall select a chair from among the members representing the general public. The chair shall hold office for a term of two years.

(f) The council may appoint any subcommittees or advisory committees it deems necessary to advise the council on matters of educational policy. The council shall appoint and may remove a director in the manner prescribed in this section. The director shall appoint persons to any civil service staff positions authorized by the council. The staffing shall include individuals with responsibilities for each of the following areas:

(1) The approval of vocational institutions.

(2) The approval of degree granting institutions.

(3) The approval of courses offered to veterans by vocational and degree granting institutions. For the purposes of implementing the requirements of this paragraph, the council is hereby designated as the state agency responsible for the administration of veteran educational benefit programs.

(4) Institutional relations to develop strong relationships with agencies such as the State Department of Education, the California Postsecondary Education Commission, the Student Aid Commission, the Department of Consumer Affairs, and nongovernmental accrediting associations.

(5) Legislative and public affairs.

(6) Staff administrative services.

(g) It is the intent of the Legislature that the council's approval and regulating responsibilities be funded solely through approval fees and federal funding provided to implement the approval process for courses offered to veterans by vocational and degree granting institutions. All fees derived from postsecondary degree granting institutions and their veterans' educational benefits shall be deposited in a special degree granting institution account, which is hereby created, in the Private Postsecondary and Vocational Education Administration Fund. All fees derived from vocational education institutions and their veterans' educational benefits shall be deposited into a special vocational education account, which is hereby created, in the Private Postsecondary and Vocational Education Administration Fund. The council shall establish an accounting procedure to allocate the time required to approve all degree granting institutions and all vocational education institutions and shall charge these accounts accordingly. Any general administrative expenses shall be allocated on a pro rata basis.

(h) The council shall prescribe rules for the transaction of its own affairs, subject to all the following requirements and limitations:

(1) The votes of all representatives shall be recorded.

(2) Effective action shall require the affirmative vote of a majority of all the duly appointed members of the council, not including vacant council seats.

(3) The affirmative votes of two-thirds of all the duly appointed members of the council, not including vacant council seats, shall be necessary for the appointment or removal of the director.

(i) There is hereby established an advisory committee to the council and the director, consisting of representatives of the Board of Cosmetology, the Board of Barber Examiners, the Board of Vocational Nurse and Psychiatric Technician Examiners, the Board of Behavioral Science Examiners, and other state agencies responsible for monitoring private postsecondary institutions. Meeting agenda items and associated documents of the council shall be provided to the advisory committee in a timely manner.

94304.5. The council shall appoint from its membership one subcommittee on postsecondary degree granting institutions and one subcommittee on vocational education. All educational institutions which confer degrees shall be considered by the subcommittee on postsecondary degree granting institutions pursuant to the requirements of Section 94310. All educational institutions which offer vocational education and which do not confer degrees shall be considered by the subcommittee on vocational education pursuant to the requirements of Section 94311. Each subcommittee shall report its recommendations to the council, which shall make the final approval determination.

94305. The council shall have the following functions and responsibilities in its capacity as the statewide private postsecondary and vocational educational planning and licensing agency:

(a) The establishment of policies for the administration of this chapter.

(b) The establishment of minimum criteria for the approval of private postsecondary or vocational educational institutions to operate in California and award degrees and diplomas, and for the approval of institutions which meet the criteria.

(c) The establishment of a process for the development and adoption of rules and regulations. The process developed shall not be inconsistent with this chapter and shall allow for the input of consumers and private postsecondary and vocational educational institutions.

(d) The adoption of rules and regulations governing the conduct of institutions under this chapter, including, but not limited to, minimum state standards for refund policies, advertising, enrollment agreements and contracts, consumer information, attendance policies, and financial responsibility.

(e) The adoption of procedures necessary or appropriate for the conduct of its work and the implementation of this chapter consistent with its adopted rules and regulations.

(f) The representation of California's segment of private postsecondary and vocational education in all state level discussions and planning for postsecondary and vocational education, including, but not limited to, representation on the California Postsecondary Education Commission, and the commission's advisory committee, and voluntary postsecondary or vocational organizations.

(g) The publication biennially for public distribution of a directory of all private postsecondary and vocational educational institutions approved to operate in California under this chapter.

(h) The preparation annually of a proposed budget for the support of activities under this chapter and to secure appropriate funding necessary for the effective implementation of this chapter.

(i) Conducting research and planning for private postsecondary and vocational education, including the compilation of important institutional, faculty, and student data.

(j) The impaneling of special committees of technically qualified persons to assist the council in the development of standards for education and educational institutions and the evaluation of any application or institutions pursuant to this chapter. The members of the special committees shall receive no compensation but shall be reimbursed for their actual expenses for attendance at official meetings and actual expenses when on official council business.

94306. (a) The initial appointments to the council shall be made in the following manner:

(1) The Governor shall appoint two members for a two-year term, two members for a three-year term, and two members for a four-year term. The representative of the California Student Aid Commission shall be appointed for a four-year term.

(2) The Senate Rules Committee shall appoint one member for a two-year term, one member for a three-year term, and one member for a four-year term.

(3) The Speaker of the Assembly shall appoint one member for a two-year term, one member for a three-year term, and one member for a four-year term.

(b) All initial appointments to the council shall become effective on July 1, 1990. All subsequent terms shall begin on January 1 of the year in which the respective terms are to commence.

(c) The Advisory Council for Private Postsecondary Educational Institutions shall be continued in existence until June 30, 1990, in order to provide communication with institutions approved under this chapter, to provide leadership in the transition of authority from the State Department of Education to the council, and to present recommendations to the council and to the California Postsecondary Education Commission for implementation of the requirements of this chapter. The executive committee of the advisory council shall present its advice and recommendations to the council at its initial meeting in July 1990, and shall serve in a resource capacity to the council during the next three-month period.

(d) The Executive Director of the California Postsecondary Education Commission shall call and chair the initial meeting of the council in July 1990, and shall serve as the chair until the council selects a chairperson. The council shall adopt procedures for the recruitment and appointment of a director and staff. On January 1, 1991, the council shall succeed to the powers, duties, and functions vested in the Superintendent of Public Instruction for the approval and monitoring of private postsecondary and vocational educational institutions. Commencing July 1, 1990, all expenses associated with the operation of the council shall be charged to and paid for from the Private Postsecondary Education Administration Fund.

(e) All responsibilities previously assigned to the Superintendent of Public Instruction for the approval and monitoring of private postsecondary and vocational education pursuant to statutes, legislative resolutions, and budget language shall be assumed by the council commencing January 1, 1991. On that date the Private Postsecondary Education Administration Fund, the Student Tuition Recovery Fund, and all ongoing projects, information, and files maintained by the Superintendent of Public Instruction and the State Department of Education shall be transferred to the council. The Private Postsecondary Education Administration Fund shall be renamed the Private Postsecondary and Vocational Education Administration Fund. All state civil service employees who were employed on December 31, 1990, to carry out the functions transferred to the council from the Private Postsecondary Education Division of the State Department of Education, shall be transferred to the council on January 1, 1991. No appointments shall be made to the Private Postsecondary Education Division between December 31, 1989, and December 31, 1990, without the approval of either the Advisory Council for Private Postsecondary Educational Institutions or the Council for Private Postsecondary and Vocational Education.

Article 2. Requirements and Standards

94310. No institution may issue, confer, or award an academic or honorary degree unless the institution meets the requirements of subdivision (a) or (i), as follows:

(a) The institution is approved by the Council for Private Postsecondary and Vocational Education to operate in California and award degrees, The council shall not approve an institution to issue degrees, diplomas, or certificates pursuant to this paragraph until it has conducted a qualitative review and assessment of, and has approved, each degree program offered by the institution, and all of the operations of the institution, and has determined all of the following:

(1) The institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to ensure its capability of fulfilling the program or programs for enrolled students.

(2) The faculty is fully qualified to undertake the level of instruction that they are assigned and shall possess appropriate degrees and have demonstrated professional achievement in the major field or fields offered, in sufficient numbers to provide the educational services.

(3) The education services and curriculum clearly relate to the objectives of the proposed program or programs and offers students the opportunity for a quality education.

(4) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(5) The course of study for which the degree is granted provides the curriculum necessary to achieve its professed or claimed academic objective for higher education, and the institution requires a level of academic achievement appropriate to that degree.

(6) The institution provides adequate student advisement services, academic planning and curriculum development activities, research supervision for students enrolled in Ph.D. programs, and clinical supervision for students enrolled in various health profession programs.

(7) If the institution offers credit for prior experiential learning it may do so only after an evaluation by qualified faculty and only in disciplines within the institution's curricular offerings that are appropriate to the degree to be pursued. The council shall develop specific standards regarding the criteria for awarding credit

for prior experiential learning at the graduate level, including the maximum number of hours for which credit may be awarded.

(b) The approval process shall include a qualitative review and assessment of all of the following:

(1) Institutional purpose, mission, and objectives.
(2) Governance and administration.
(3) Curriculum.
(4) Instruction.
(5) Faculty, including their qualifications.
(6) Physical facilities.
(7) Administrative personnel.
(8) Procedures for keeping educational records.
(9) Tuition, fee, and refund schedules.
(10) Admissions standards.
(11) Financial aid policies and practices.
(12) Scholastic regulations and graduation requirements.
(13) Ethical principles and practices.
(14) Library and other learning resources.
(15) Student activities and services.
(16) Degrees offered.

The standards and procedures utilized by the council shall foster the development of high quality, innovative educational programs and emerging new fields of study within postsecondary education.

(c) The council may, at is discretion, delegate the responsibilities for regulation and oversight of accredited degree-granting law schools to the California Committee of Bar Examiners, and that accreditation may be accepted by the council in lieu of State approval.

(d) (1) The council shall conduct a qualitative review and assessment of the institution and all programs offered, including the items listed in subdivision (b), through a comprehensive on-site review process, performed by a qualified visiting committee impaneled by the council for that purpose. Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based. The visiting committee shall be impaneled by the council within 90 days of the date of the receipt of a completed application and shall be composed of educators, and other individuals with expertise in the areas listed in subdivision (b), from established institutions within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, the council shall take one of the following actions:

(A) Grant an approval to operate for a period not to exceed five years.

(B) Grant candidate for approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may not be renewed, and shall be granted only to new institutions, or to institutions changing to operating under the provisions of Section 94310, after operating under the provisions of Section 94311. All new institutions shall operate initially as candidates for approval.

(C) Disapprove the application.

(2) When evaluating an institution whose purpose is to advance postsecondary education through innovative methods, the visiting committee shall comprise educators who are familiar with and receptive to evidence bearing on the educational quality and accomplishments of those methods.

(3) The standards and procedures utilized by the council shall not unreasonably hinder educational innovation and competition.

(e) If at any time the council determines that an institution has deviated from the standards for approval, the council may, after identifying for the institution the areas in which it has deviated from the standards, and after giving the institution due notice and an opportunity to be heard, place the institution on probation for a prescribed period of time, not to exceed 12 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the council, and special visits by authorized representatives of the council to determine progress toward total compliance. If, at the end of the probationary period, the institution has not taken steps to eliminate the cause or causes for its probation to the satisfaction of the council, the council may revoke the institution's approval to award degrees and provide notice to the institution to cease its operations.

(f) An institution may not advertise itself as an approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section. The council shall review all operations of the institution, both within and outside of California. The council may authorize any institution approved to issue degrees under this section to issue diplomas for the completion of courses of study that are within the institution's approved degree-granting programs. However, if the preponderance of the institution's enrollments are in vocational programs leading to a diploma, rather than a degree, the institutions shall comply with the requirements of Section 94311, rather than Section 94310.

(g) All institutions operating on December 31, 1990, pursuant to licensure received under subdivision (a) of Section 94310.1 or approval received under Section 94310.2, shall receive approval for a period not to exceed four years from the date of the institution's last approval review. On a specified date prior to June 30, 1995, to be determined by the council, each institution granted approval pursuant to this subdivision shall file a completed application for reapproval pursuant to this section.

(h) All institutions operating pursuant to authorization received under Section 94310.3 or 94310.4, as in effect on December 31, 1990, shall receive candidate for approval status for a period not to exceed three years from the date of the institution's last authorization review.

On a specified date prior to June 30, 1994, to be determined by the council, each institution granted candidate for approval status pursuant to this subdivision shall file a completed application for approval pursuant to this section.

(i) Any public or private postsecondary educational institution incorporated in another state that has accreditation from a regional accrediting association recognized by the United States Department of Education at the time of the issuance of a degree, and that is approved by the council, may issue degrees, diplomas, or certificates. Accredited public or private postsecondary educational institutions incorporated in another state shall not offer degrees, diplomas, or certificates in California unless they comply with the provisions of this subdivision.

(1) The council shall not approve an institution to issue degrees, diplomas, or certificates pursuant to this subdivision until the council has conducted a qualitative review and assessment of and has approved, the operations of the institution in California, and the council has determined that the institution meets the following standards:

(A) The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students.

(B) The faculty includes personnel who possess appropriate degrees from institutions accredited by a regional accrediting association recognized by the United States Department of Education in the degree major field or fields offered, in sufficient number to provide the educational services.

(C) The education services and curriculum clearly relate to the objectives of the proposed program or programs.

(D) The facilities are appropriate for the defined educational objectives and are sufficient to ensure quality educational services to the students enrolled in the program or programs.

(E) The institution has verifiable evidence of academic achievement comparable to that required of graduates of other institutions operating in this state for the program or programs upon which the degree, diploma, or certificate is based.

(2) The council shall grant approved status under this subdivision for a period consistent with the postsecondary educational institution's regional accrediting association, but not to exceed five years.

(3) Institutions approved under this subdivision shall offer in California only programs that the institution can document to have been acknowledged and favorably reviewed by the home regional accrediting association.

(4) In reviewing the out-of-state accredited institutions, the council shall use as guidelines the standards and procedures developed by the special committee created pursuant to paragraph (5) of subdivision (b) of Section 94310.1, as in effect on December 31, 1989, and adopted by the California Postsecondary Education Commission. These standards and procedures were based on the following principles:

(A) Following the initial state review, subsequent onsite reviews by the council may be conducted in conjunction with institutional reviews by the regional accrediting association. However, if there is substantial evidence that the institution is not in compliance with state standards, the council may initiate a special review of the California operations of the institution.

(B) Each institution shall submit a single application for all operations in California, and the application shall include a single fee which is institution-based and not site-based.

(C) The council shall develop a procedural rationale to justify the number of sites to be visited by the state in the review of the institution's operations in California.

(D) The purpose of the onsite review by the council shall be to determine that operations by the institution in California meet the minimum state standards identified in statute.

(E) The standards and procedures shall not unreasonably hinder educational innovation and competition.

(5) The regulations used by the council to implement this chapter shall provide for consideration of the accredited institutions' stated educational goals, purposes, and objectives, in conducting the approval review of the California operations of out-of-state based institutions.

(A) These regulations shall include a formula to determine the institutional approval fee and the number of sites to be visited by the state.

(B) The regulations developed by the council shall be based on the procedures and standards recommended by the special committee and acted upon by the commission. In conducting the approval review of the operation of out-of-state accredited institutions in California, the council shall interpret the regulations based upon each institution's accredited educational purposes and objectives.

(6) All institutions operating under subdivision (b) of Section 94310.1, as it read on December 31, 1990, shall receive approval for a period not to exceed five years from the date of the institution's last review by the state. On a date to be specified by the council on or before June 30, 1995, each institution granted approval under this subdivision shall file a completed application for reapproval under this section.

94311. No private vocational educational institution may offer career or job training programs, or offer, confer, or award a diploma, unless the institution, or the branch or satellite campus, has been approved by the council as meeting the requirements of subdivision (a):

(a) The institution is approved by the Council for Private Postsecondary and Vocational Education to operate in California and to offer vocational or technical programs and award a diploma or certificate. The council shall not approve an institution, or the branch campus of an institution, to issue diplomas or certificates pursuant to this subdivision until it has conducted a qualitative review and assessment of the operations of the institution in California, and determined all of the following:

(1) The quality and content of each course or program of instruction, training, or study may reasonably and adequately be expected to achieve the stated objective for which the course or program is offered.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the object of that particular course.

(3) Every instructor and administrator holds an applicable and valid Certificate of Authorization for Service issued by the council in the specified competence area in which the individual will serve. Certificates may be issued to administrators and to instructors upon the council's determination that the applicant possesses adequate academic, experiential, and professional qualifications, and that grounds for denying the issuance of the certificate, as provided in Section 480 of the Business and Professions Code, do not exist. The council shall not issue a certificate to any instructor or member of the administrative staff who has been convicted of, or who has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of federal or state funds, or who has been judicially or administratively determined to have committed fraud involving state or federal funds.

(4) The institution maintains written records of the student's previous education and training, where applicable.

(5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is given to students prior to enrollment.

(6) The institution maintains and enforces adequate standards relating to attendance, satisfactory academic progress, and student performance.

(7) The institution complies with all local city, county, municipal, state, and federal regulations relative to the safety and health of all persons upon the premises such as fire, building, and sanitation codes. The council may require evidence of compliance.

(8) The institution does not exceed enrollment which the facilities and equipment of the institution can reasonably handle.

(9) The institution's administrators and instructors possess the professional qualifications necessary to comply with this chapter, and the institution's officers, directors, and owners demonstrate financial and fiduciary responsibility, as prescribed by statute, or by regulations adopted by the council.

(10) The institution is in compliance with this chapter and has developed policies and procedures designed to ensure that compliance.

(11) Application for approval shall be made in writing on forms prescribed by the council.

(b) Within 90 days following the receipt of the institution's application, and prior to the issuance of an approval, a representative of the council shall personally inspect the institution and verify the institution's compliance with the standards prescribed by this chapter. Within 90 days following visitation, the council shall take one of the following actions:

(1) Grant approval for a period not to exceed three years.

(2) Grant candidate for approval status for a period not to exceed two years plus the remainder of the calendar year in which the application was made. Candidate status may not be renewed, and shall only be granted to new institutions.

(3) Disapprove the application.

(c) All institutions operating in California on December 31, 1989, pursuant to the prior authority of subdivision (c) of former Section 94311, and which continued to operate under the requirements of this chapter on the operative date of this section, shall receive an approval status for a period not to exceed three years. On a specified date to be determined by the council on or before June 30, 1993, each institution granted an approval pursuant to this subdivision shall file a completed application for reapproval pursuant to this section. It is the intent of the Legislature that all institutions having a cumulative gross student loan default rate higher than 40 percent, as determined by the Student Aid Commission, shall be reviewed by the council on or before February 29, 1992, to determine if these institutions are in compliance with the requirements of this chapter, and should be continued to be approved to offer educational programs in California. On or before March 15, 1992, the council shall report to the education policy and fiscal committees of the Legislature on the results of this review.

All institutions operating in California on December 31, 1990, pursuant to prior authority of subdivision (a) or (b) of former Section 94311, shall receive approval from the council for a period not to exceed three years. On or before June 30, 1994, the council shall work in cooperation with the appropriate state boards or agencies, and with the Federal Aviation Administration, to review each of these institutions to determine whether the institution is in compliance with the requirements of this chapter. It is the intent of the Legislature that the council develop a memorandum of understanding with each of the appropriate state boards or agencies and with the Federal Aviation Administration to delineate the responsibilities of each agency the approval and monitoring of these private vocational institutions that were operating on December 31, 1990, under the prior authority of subdivisions (a) and (b) of former Section 94311. It is further the intent of the Legislature that these memorandums of understanding be introduced as legislation on or before February 1, 1994, for enactment as amendments to this act. It is the intent of the Legislature that all institutions having a cumulative gross student loan default rate above 40 percent, as determined by the Student Aid Commission, shall be reviewed by the state board and the council on or before February 29, 1992, to determine if these institutions are in compliance with the requirements of this chapter and should continue to be approved to offer educational programs in California.

All institutions operating in California on December 31, 1990, pursuant to the prior authority of subdivision (d) of former Section 94311, shall receive an approval for a period not to exceed three years. On a specified date to be determined by the council on or before December 31, 1993, each institution granted an approval pursuant to this subdivision, shall file a completed application for reapproval pursuant to this section.

(d) The council may, at its discretion, delegate all or a portion of its responsibilities for the regulation and oversight of nondegree granting vocational institutions to a state board in the Department of Consumer Affairs, to the Federal Aviation Administration, or to the state agency responsible for administering Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code. Nothing in this section shall modify the existing authority of regulatory agencies with the Department of Consumer Affairs relating to schools or programs.

The council shall delegate its responsibilities only when the state board or state agency can demonstrate that its standards and procedures for the review of institutions encompass the standards and consumer protection requirements prescribed by this chapter and that these standards and procedures are rigorously enforced.

(e) If at any time the council determines that an institution has deviated from the standards for approval, the council may, after giving the institution due notice and an opportunity to be heard, place the institution on probation for a specified period of time not to exceed 12 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the council, and special visits by authorized representatives of the council to determine progress toward total compliance. If at the end of the specified probationary period the institution has not taken steps to eliminate the causes for its probation to the satisfaction of the council, the council may revoke the institution's approval and provide notice to the institution to cease its operations.

94311.4. The council may utilize the resources of accrediting associations in gathering information about accredited postsecondary and vocational institutions, including participating as an observer on accreditation site visits. However, this does not preclude or relieve the council of its responsibilities under the provisions of this chapter and the council shall retain full authority for approving all private postsecondary and vocational institutions operating in California.

94311.5. (a) The review of a private postsecondary or vocational educational institution's original application for approval, or a renewal application to the council, or an approved institution already in operation, shall include a determination of the institution's financial responsibility. An institution shall be considered financially responsible if it has sufficient assets for all of the following:

(1) To provide the educational services stated in its official publications and statements.

(2) To comply with the standards and requirements specified in Sections 94310 and 94311.

(3) To provide the administrative and financial resources to fully comply with Section 94312.

(b) An institution shall not be considered financially responsible under any of the following conditions:

(1) The institution, under generally accepted accounting principles, has had operating losses in, at a minimum, the two most recent years or had, for its latest fiscal year, a deficit net worth. A deficit net worth occurs, for purposes of this section, when the institution's liabilities exceed its assets.

(2) Under generally accepted accounting principles, the institution had, at the end of its latest fiscal year, a ratio of current assets to current liabilities of less than 1.25 to 1.

(3) Under a fund accounting system, the institution's unrestricted current or operating fund reflects sustained material deficits over at least its two most recent fiscal years.

(4) The institution is not in compliance either with the regulations adopted by the council or with any existing statutes relating to the requirements for maintaining sufficient funds to cover all operating expenses.

(c) If the council determines that an institution is not financially responsible, the council may, under terms and conditions prescribed by the council, require the institution to submit for its latest complete fiscal year and its current fiscal year, each of the following:

(1) A financial audit of the institution conducted by a licensed certified public accountant, in accordance with generally accepted auditing standards.

(2) The institution's financial plan for establishing financial responsibility.

(3) Any other information requested by the council.

This subdivision shall not prevent the council from taking any other actions authorized under this chapter.

94312. All institutions approved under this chapter shall be maintained and operated, or in the case of a new institution, shall demonstrate that it will be maintained and operated, in compliance with all of the following minimum standards:

(a) That the institution is financially capable of fulfilling its commitments to its students.

(b) That the institution and its agents do not utilize advertising of any type which is false or misleading, either by actual statement, omission, or intimation.

(c) That the institution designates an agent for service of process within this state.

(d) That the institution has and maintains a fair and equitable policy for the refund of the unused portion of tuition fees and other charges in the event the student does not register for the period of attendance or withdraws therefrom at any time prior to completion of the courses, or otherwise fails to complete the period of enrollment. The institutional refund shall be defined as the amount paid for institutional *charges for the term of instruction by financial aid or cash payments*, minus the amount retained by the school for the portion of the term of instruction that the student attended classes, subject to the following provisions:

(1) The institution shall, without penalty or obligation, refund 100 percent of the amount paid for institutional charges, less a reasonable deposit or application fee not to exceed one hundred dollars ($100), if notice of cancellation is made prior to or on the first day of instruction. The institution shall advise each student that any notification of withdrawal or cancellation and any requests for a refund must be made in writing.

(2) The institution shall provide a written statement containing its refund policy, together with examples of the application of the policy, to each student prior to signing the enrollment contract, and shall make its policy known to currently enrolled students.

(3) Institutions shall pay or credit refunds due on a reasonable or timely basis, not to exceed 30 days following the date upon which the student's withdrawal has been determined.

(4) Each institution shall publish a current schedule of all student charges, a statement of the purpose for those charges, and a statement of the cancellation and refund policies with examples of the application of the policies, and shall provide the schedule to all current and prospective students prior to enrollment. The schedule shall clearly indicate and differentiate all mandatory and optional student charges. The institution shall include a clear statement written in English describing the procedures that a student must follow to cancel the contract or agreement and obtain a refund. The schedule shall specify the total costs of attendance which shall include, but not be limited to, tuition, fees, equipment costs, housing, transportation, books, necessary supplies, materials, shop and studio fees, and any other fees and expenses that the student will incur upon enrollment.

The schedule shall clearly identify all charges and deposits that are nonrefundable.

(5) The council shall take into consideration the contract for educational services entered into with the student, as well as the length and character of the educational program in determining standards for refunds. The decision of the council shall be final.

(e) That any written contract or agreement signed by a prospective student will not become operative until the student makes an initial visit to the institution or at-tends the first class or session of instruction. The school officials are obligated to provide the student with a thorough tour of the campus facilities and to place a written statement, signed by the student, in the student's file to verify that the visitation and campus tour were provided. This provision does not apply to correspondence schools or other distance learning programs.

(f) That any written contract or agreement for a course of study with an institution shall include each of the following:

(1) On the first page of the agreement or contract, in 12-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the school should be directed to the Council for Private Postsecondary Education, Sacramento, California 95814."

(2) In underlined capital letters on the same page of the contract or agreement in which the student's signature is required, the total amount that the student is obligated to pay for the course of instruction and all other services and facilities furnished or made available to the student by the school, including any charges made by the school for tuition, room and board. books, materials, supplies, shop and studio fees, and and other fees and expenses that the student will incur upon enrollment.

(3) A list of any charges and deposits that are nonrefundable clearly identified as "nonrefundable" charges.

(4) A written statement signed by a representative of the institution, which certifies that the institution has met all disclosure requirements required by this section and, for institutions participating in state or federal student assistance programs, has met all requirements for the administration of any state financial aid program under Chapter 2 (commencing with Section 69500) of Part 42 or any federal student assistance program under Title IV of the federal Higher Education Act of 1965 (P.L. 89-329), extensions of that act, amendments to that act, and the rules and regulations adopted under that act.

(5) The name and address of the school and the addresses where instruction will be provided.

(6) The name and description of the course of instruction, including the total number of classes, hours, or lessons required to complete the course of instruction.

(7) A clear and conspicuous statement that the agreement or contract is a legally binding instrument when signed by the student and accepted by the school.

(8) A clear and conspicuous caption, "BUYER'S RIGHT TO CANCEL" under which it is explained that the student has the right to cancel the course and obtain a refund, the form and means of notice that the student should use in the event that he or she elects to cancel the enrollment agreement, and the title and address of the school official to whom the notice should be sent or delivered.

(9) A clear statement of the refund policy written in plain English.

(10) The signature of the student under the following statement which is presented in 12-point boldface or larger print: "My signature below certifies that I have read, understood, and agreed to my rights and responsibilities, and that the institution's cancellation and refund policies have been clearly explained to me."

The council shall, in consultation with its appropriate advisory committee, adopt a model contract form that shall be used by each institution.

All contracts and enrollment agreements signed by the student shall be written in language which is capable of being easily understood. If English is not the primary language spoken by the student, the student shall have the right to obtain a clear explanation of the terms and conditions of the agreement and all cancellation and refund policies in his or her primary language.

(g) That neither the institution nor its agents engage in sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair.

(h) That the institution provides to students and other interested persons, prior to enrollment, a catalog or brochure containing at a minimum the following information:

(1) Descriptions of the instruction provided under each course offered by the institution.

(2) The number of credit hours or clock hours of instruction or training per unit or units required for completion of the educational degree or certificate program.

(3) The attendance, dropout, and leave of absence policies.

(4) The faculty and their qualifications.

(5) The schedule of tuition, fees, and all other charges and expenses necessary for the term of instruction and the completion of the course of study.

(6) The cancellation and refund policies.

(7) For institutions which participate in federal and state financial aid programs, all consumer information which the institution is required to disclose to the student.

(8) All other material facts concerning the institution and the program or course of instruction which are reasonably likely to affect the decision of the student to enroll, as prescribed by rules and regulations adopted by the council.

(9) No written contract signed by the student shall be enforceable unless the information specified in this subdivision has been disclosed to the student.

(i) That each institution offering a degree or certificate program designed to prepare students for a particular vocational, trade, or career field shall provide to each prospective student a school performance fact sheet disclosing the following information:

(1) The number and percentage of students who begin the institution's program and successfully complete the entire program. The rate shall be calculated by determining the percentage of students enrolled in the program who were originally scheduled, at the time of enrollment, to complete the program in that calendar year and who successfully completed the program.

(2) The passage rates of graduates in the program for the most recent calendar year that ended not less than six months prior to the date of disclosure of any licensure or certificate examination required by the state for employment in the particular vocational, trade, or career field.

(3) The number and percentage of students who begin the program and secure employment in the field for which they were trained. In calculating this rate, the institution shall consider as not having obtained employment, any graduate for who the institution does not possess evidence, documented in his or her file, showing that he or she has obtained employment in the occupation for which the program is offered.

(4) The average annual starting wages or salary of graduates of the institution's program, if the institution makes a claim to prospective students regarding the starting salaries of its graduates, or the starting salaries or local availability of jobs in a field. The institution shall disclose to the prospective student detailed statistics or other information necessary to substantiate the truthfulness of the claim.

Each school which offers or advertises placement assistance for any course of instruction shall file with the council its placement statistics for the 12-month period or calendar year immediately preceding the date of the school's application for annual review for every course of instruction.

The council shall develop standards and criteria to be used by each institution in determining the statistical information required by this subdivision.

(j) That upon satisfactory completion of training, the student is given an appropriate degree or diploma by the institution, indicating that the course or courses of instruction or study have been satisfactorily completed by the student.

(k) That adequate and accurate records are maintained by the institution, in accordance with regulations adopted by the council, and that satisfactory standards are enforced relating to attendance, progress, and performance.

() That the institution maintains current records for a period of not less than five years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the council or the Attorney General of California showing all of the following:

(1} The names and addresses, both local and home, including city and state, of each of its students.

(2) The courses of study offered by the institution.

(3) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

(4) The degrees or diplomas and honorary degrees and diplomas granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

(m) That the institution provides instruction as part of its educational program. Instruction shall include any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(n) Institutions certified to offer flight instruction by the Federal Aviation Administration, or its successor agency, shall comply with all of the requirements of this section, but shall not be required to file any materials with the council which are not required by the Federal Aviation Administration, or its successor agency, except those minimally necessary to administer the Student Tuition Recovery Fund, pursuant to Section 94342, as determined by the council. The responsibility for monitoring and enforcing institutional compliance for these institutions shall be with the council.

Individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences shall be exempt from the requirements of this section.

94312.2. Each institution approved to operate under this chapter shall be required to report to the council, by July 1 of each year, the following information for educational programs offered in the prior 12 months:

(a) The total number of students enrolled by level of degree.

(b) The number of degrees awarded by level of degree.

(c) The degree levels offered.

(d) Program completion rates.

(e) Placement data for vocational training programs, unless that data already is required to be provided by the institution under other requirements of this chapter.

(f) The schedule of tuition and fees required for each term, program, course of instruction, or degree offered.

(g) If an institution submits an audited financial statement to the United States Department of Education, the institution shall submit a copy of that financial statement to the council.

(h) Financial information demonstrating compliance with subdivisions (b) and (c) of Section 94316.6.

(i) Institutions having candidate status shall submit an annual report reviewing their progress in meeting the standards required for approval status.

(j) Any additional information that the council may prescribe.

Program completion rates and placement data shall be reported in accordance with the standards and criteria prescribed by the council pursuant to subdivision (i) of Section 94312. Based on the review of information submitted to fulfill the requirements of this section, the council may initiate a compliance review and may place the institution on probation pursuant to subdivision (e) of Section 94310 and subdivision (e) of Section 94311, and may require evidence of financial stability and responsibility pursuant to Section 94311.5.

94313. (a) Within 30 days of receiving a written notice described in subdivision (a) or subdivision (c) of Sections 69509.5 and 69509.7 from the Student Aid Commission, the council shall commence an investigation of the institution named in the notice. The purpose of the investigation shall be to determine whether the educational institution is in compliance with this chapter.

(b) Within a reasonable time after the commencement of the investigation required in subdivision (a), the council shall conclude its investigation and take action against the institution involved, as appropriate.

94315. (a) No institution may offer education which develops or improves an occupational skill, knowledge, or ability unless the ownership for its statewide operations has filed with the council an annual declaration under penalty of perjury for public disclosure setting forth the following information:

(1) The owner's legal name, headquarters address, and the name of an agent for the service of process within California.

(2) All names, whether real or fictitious, under which the owner is doing and will do business.

(3) The names and addresses of the principal officers of the ownership.

(b) The annual declaration under penalty of perjury shall be accompanied by representative copies of any existing media advertising or promotional material. Institutions filing pursuant to this section shall be exempt from all of the requirements of this chapter, except for those prescribed in subdivision (d) of Section 94320, Section 94321, and Section 94336. Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for, any institution to expressly or impliedly represent by any means whatsoever, that the State of California, or the Council for Private Postsecondary and Vocational Education, has made any evaluation, recognition, accreditation, approval, or endorsement of the institution or the education offered.

(c) This section does not apply to education with an educational, professional, technological, or vocational objective which is subject to approval pursuant to Section 94311. Institutions accredited by a national or applicable regional accrediting agency recognized by the United States Department of Education, or accredited or approved by a California state agency for that education, are exempted from this section. Also exempted from this section are remedial and tutorial education, as determined by the council, any education which is offered free of charge, and any education offered by nonprofit entities, including national or statewide professional and occupational organizations and public benefit corporations.

Article 2.5. Student Protections

94316. (a) This article shall be known and may be cited as the Maxine Waters School Reform and Student Protection Act of 1989.

(b) The Legislature finds and declares that students have been substantially harmed and the public perception of reputable institutions has been damaged because of the fraudulent, deceptive, and unfair conduct of some institutions that offer courses of instruction for a term of two years or less that are supposed to prepare students for employment in various occupations. Students have been induced to enroll in these schools through various misrepresentations including misrepresentations related to the quality of education, the availability and quality of equipment and materials, the language of instruction, and employment and salary opportunities. Some of the most egregious misrepresentations are made by representatives who recruit students at places other than the institution's premises. Some students have been enrolled who do not have the ability to benefit from the instruction. In addition, the quality of the education offered is often inadequate to enable students to obtain jobs after the completion of instruction.

(c) The Legislature further finds and declares that many students who enroll in these schools pay their tuition from the proceeds of loans and grants guaranteed or provided by the State and federal governments. Students who leave schools before the completion of instruction, often because of misrepresentations and inadequate instruction, do not receive adequate refunds of tuition for the instruction not received. Students remain liable to repay student loans but are frequently unable to do so in part because they were unable to obtain the proper educational preparation for jobs. Students are also harmed by the closure of institutions, often caused by the fraud or mismanagement of the institution's operators, because the students neither obtain the education promised nor a refund of tuition and the cost of materials. As a result of all of the foregoing, the State and federal governments spend many millions of dollars annually to satisfy loan guarantees for often inadequate and misrepresented vocational school courses.

(d) It is the intent and purpose of this article to protect students and reputable institutions, assure appropriate State control of business and operational standards, assure minimum standards for educational quality, prohibit misrepresentations, require full disclosures, prohibit unfair dealing, and protect student rights. It s the intent and purpose of this article to save millions of dollars of taxpayer's funds from being misused to underwrite the activities of institutions that depart from the standards of fair dealing and the requirements of this article.

(e) This article shall be liberally construed to effectuate its intent and achieve its purposes.

94316.1. (a) This article applies to private postsecondary educational institutions other than institutions that (1) are incorporated and lawfully operate as nonprofit public benefit corporations pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and are not managed or administered by any entity for profit, or (2) either exclusively confer degrees upon the completion of a course of study of two or more years or regularly confer degrees such as master or doctorate on students who have completed an undergraduate course of study of two or more years at a college or university. Except as otherwise provided, this article also applies to schools subject to Section 94319.13.

(b) Section 94312 shall not apply to institutions subject to this article. In the event of a conflict between any other provision of this chapter and this article, this article applies.

94316.2. The following definitions apply to this article:

(a) "Owner" means any person who has a legal or equitable interest in 10 percent or more of an institution's stock or assets.

(b) "Person in control" means a relative by blood or marriage of an owner, director, or officer, or a person who has the capacity, directly or indirectly, to direct or influence the management, policies, and conduct of the institution.

(c) "Representative" means an employee, an agent as defined in Section 2295 of the Civil Code, an agent subject to Section 94333, an agency subject to Section 94334, or any person who, for compensation, solicits, promotes, advertises, or recruits students or is involved with enrollment, admissions, student attendance, administration, financial aid, instruction, or job placement assistance on behalf of an institution.

(d) "Superintendent" means the Superintendent of Public Instruction and any state agency, department, or other governmental entity that may succeed the Superintendent of Public Instruction in the approval, authorization, licensure, regulation, or oversight of, or any other duty or function relating to, postsecondary educational institutions.

94316.3. (a) No institution or representative of an institution shall make any statement that is in any manner untrue or misleading, either by actual statement, omission, or intimation.

(b) No institution or representative of an institution shall engage in any false, deceptive, misleading, or unfair act in connection with any matter, including any of the following: the institution's advertising and promotion, the recruitment of students for enrollment in the institution, the offer or sale of a course of instruction, the enrollment or testing of students, the preparation or submission of a student's application for a student loan or grant, the financing of a course of instruction, the withholding of educational materials or loan or grant funds from a student, training and instruction, the collection of payments, or job placement.

(c) An institution is responsible for any violation of this article committed by a representative of the institution.

(d) No institution shall offer to pay or pay any consideration to a student or prospective student to act as a representative of the institution with regard to the solicitation or recruitment of any person for enrollment in the institution.

(e) No institution shall compensate a representative involved in recruitment, enrollment, admissions, or student attendance on the basis of a commission, bonus, quota, or other similar method unless each student for whom the compensation is to be paid completes the course of instruction.

(f) No institution shall pay any consideration to a person to induce that person to listen to a solicitation for enrollment in the institution, visit the institution, or to sign an agreement for a course of instruction.

(g) No institution shall use a misleading name in any manner implying that the institution is affiliated with any governmental agency, public or private corporation, agency, or association.

(h) No institution or any representative of an institution shall make any untrue or misleading statement of, or change in, any student test score, grade, record of grades, attendance record, financial information, information or record relating to the student's eligibility for financial assistance or attendance at the institution, or any other record or document required by this chapter.

(i) No institution shall use the terms "approval," "approved," "approval to operate," or "approved to operate," without stating clearly and conspicuously that approval to operate means compliance with minimum state standards and does not imply any endorsement or recommendation by the state or by the superintendent.

94316.4. (a) In addition to making any other required disclosures, a representative of an institution who in any manner solicits or recruits any person at any place other than the institution's premises for enrollment in a course of instruction shall disclose the following, orally and in a correctly dated writing printed in at least 10-

point type and signed by the representative, before attempting to solicit or recruit or make any presentation promoting the institution:

(1) The representative is a paid recruiter for an institution.

(2) The representative is recruiting enrollment for an institution.

(3) The representative is not offering a job, making job referrals, or conducting a survey.

(4) There is no guarantee of a job after a student graduates from the course of instruction.

(5) The amount of compensation the representative will receive if the person enrolls and completes the course of instruction.

(6) The total cost of the course of instruction and materials.

(7) Refund and cancellation rights.

(8) If the person obtains a loan to pay for the course of instruction, the person will have the sole responsibility to repay the full amount of the loan, less the amount of any refund, in monthly payments after the person stops attending classes.

(9) If the student loan is guaranteed or reinsured by the state or federal government and the student defaults on the loan:

(A) The federal or state government or the loan guarantee agency can take action against the student including applying any income tax refund to which the person is entitled to reduce the balance owed on the loan.

(B) The student generally will not be eligible for any other federal financial assistance for education or for government housing assistance until this loan is repaid.

(10) The disclosures required by paragraph (2) of subdivision (a) of Section 94316.10.

(11) If the institution has offered the course of instruction for less than one year, the disclosure required by paragraph (3) of subdivision (a) of Section 94316.10.

(b) A representative who solicits or recruits any person as described in subdivision (a) shall provide the person at that time with a copy of the institution's current catalog or brochure, containing the information described in paragraph (4) of subdivision (a) of Section 94316.10, which the person may retain without charge.

(c) No institution shall enter an agreement for a course of instruction with, or prepare or assist in the preparation of a student loan or grant application for, a person solicited or recruited as described in subdivision (a) within 10 days of the date on which the person was solicited or recruited.

94316.5. (a) No institution that has offered a course of instruction at any time during the time period described in subdivision (d) shall continue to offer that course of instruction if more than 40 percent of the students who began the course and were originally scheduled at the time of enrollment to complete the course during that period failed to complete it or if more than 30 percent of the students who completed the course within that period failed to obtain employment, within six months of completing the course, in the occupations or job titles to which the course of instruction was represented to lead. For the purpose of this subdivision, "course of instruction" or "course" includes all courses of instruction, however denominated, that lead or are represented to lead to the same or closely related occupations or job titles.

(b) No institution that has offered courses of instruction at any time during the time period described in subdivision (d) shall continue to offer any course of instruction if more than 40 percent of all the students who began the courses and were originally scheduled at the time of enrollment to complete these courses during that time period failed to complete these courses or if more than 30 percent of all the students who completed the courses within that time period failed to obtain employment, within six months of completing the courses, in the occupations or job titles to which the courses of instruction were represented to lead.

(c) An institution shall maintain records of the name, address, and telephone number of students who enroll in a course of instruction and of students who graduate from that course of instruction. An institution shall inquire whether students who complete a course of instruction obtain employment in the occupation to which the course of instruction is represented to lead. The inquiry shall be documented by a list indicating the student's name, address, and telephone number; the employer's name and address; the name and address of the person who provided the information to the institution; the name, title, or description of the job, and the date the student obtained employment.

(d) The superintendent may permit an institution to exclude specific students from the calculation of the percentage of students who failed to obtain employment within six months of completing a course of instruction only if all of the following conditions are satisfied:

(1) For each student for whom the institution seeks an exclusion, the institution shall submit to the superintendent the name and current address and telephone number of the student and the student's statement, completed in accordance with paragraph (2), indicating both of the following:

(A) The student does not seek employment within six months of completing the course of instruction in the occupations or job titles to which the course of instruction leads or was represented to lead.

(B) The reasons why the student does not seek employment.

(2) The statement described in paragraph (1) shall be made by the student in the student's own handwriting within six months after the student completed the course of instruction and shall be signed and dated by the student.

(3) No institution or representative of an institution shall offer or pay any consideration, make any untrue or misleading statement, or engage in any deceptive or unfair practice to obtain a student's statement.

(4) The superintendent shall make a reasonable effort to contact each student for whom a statement is submitted to verify the accuracy of the student's statement and that no violation of paragraph (3) has occurred. The superintendent shall maintain a record of each contact.

(5) The institution shall pay all reasonable costs and expenses incurred by the superintendent in connection with this subdivision at a time designated by the superintendent.

(6) The Superintendent may exclude a specific student if the superintendent verifies the student's statement after contacting that student as provided in paragraph (4). The superintendent shall not exclude a specific student if the superintendent does not verify the student's statement or if the superintendent is unable to contact the student after a reasonable effort. The superintendent shall not exclude any student of the institution or a representative of the institution violated paragraph (3) or if the institution fails to make payment as required by paragraph (5). The superintendent shall send written notice to the institution within 60 days of the date the institution submitted the student's statement of whether the superintendent has excluded the student.

(7) This subdivision applies only if an institution fails to comply with subdivisions (a) or (b) because an insufficient number of students obtained employment within six months of completing a course of instruction, and the superintendent's grant of the institution's request for the exclusion of specific students would result in the institution's satisfaction of the requirements of subdivisions (a) and (b).

(e) For the purpose of subdivisions (a) and (b), "the time period" or "that period" means the following:

(1) For courses of instruction that an institution proposes to offer during 1991, the one-year period that ended not more than six months before the date the institution proposes to continue to offer a course of instruction.

(2) For courses of instruction that an institution proposes to offer on and after January 1, 1992, the two-year period that ended not more than six months before the date the institution proposes to continue to offer a course of instruction.

(f) This section shall become operative on January 1, 1991.

94316.6. No institution shall enter into an agreement with any person to provide to that person any course of instruction if any of the following has occurred:

(a) The institution has failed to comply at all times with the following:

(1) All of the minimum criteria set forth in Section 94311, as added by Senate Bill 190 in the 1989-90 Regular Session of the Legislature, or Section 94311.1, whichever is applicable.

(2) If the institution is accredited, all standards, policies, criteria, and guidelines of the accrediting agency which accredited the institution.

(3) All of the applicable provisions of this chapter including this article.

(b) The institution fails to have available sufficient funds to pay all operating expenses due within 30 days. For the purpose of this subdivision, "funds" means cash or assets which can be converted into cash within seven days.

(c) The institution fails to maintain a ratio of current assets to current liabilities of 1.25 to 1, as determined in accordance with generally accepted accounting principles. For the purpose of this subdivision, "current assets" does not include any of the following:

(1) intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and nonreturnable deposits; or (2) state or federal grant funds that are not the property of the institution but are held for future disbursement for the benefit of students.

"Current liabilities" shall include unearned tuition.

(d) The institution's liabilities exceed its assets. "Assets" shall not include any item described in paragraphs (1) and (2) of subdivision (c). "Liabilities" shall include unearned tuition.

(e) The institution has had operating losses, as determined under generally accepted accounting principles, over at least the two most recent years.

(f) Under a fund accounting system, the institution's unrestricted current or operating fund reflects sustained material deficits over at least its two most recent fiscal years.

(g) The institution has failed to make timely refunds to students or has not satisfied, within 30 days of its issuance, a final judgment obtained by a student against the institution.

(h) The institution or an owner, person in control, director, or officer of the institution is found in any criminal, civil, or administrative proceeding to have violated any law regarding the obtaining, maintenance, or disbursement of state or federal loan or grant funds, or any other law substantially related to the operation of the institution.

(i) The institution, or an owner, person in control, director, or officer of the institution, has unpaid financial liabilities involving the improper acquisition, use, expenditure, or refund of state or federal financial aid funds.

(j) An owner, person in control, director, or officer of the institution (1) owned or served as a director or officer of another institution within one year before that institution's closure, (2) had the capacity, directly or indirectly, to direct or influence the management, policies, and conduct of the closed institution, and (3) failed to pay to all students of the closed institution full refunds or full compensation for actual damages resulting from the closure that were not paid by the closed institution.

94316.7. If any person willfully violates this article and the violation results in the closure of an institution, that person shall pay to all students of the closed institution full refunds or full compensation for actual damages resulting from the closure that were not paid by the closed institution.

94316.8. No institution shall establish a branch or satellite campus unless the branch or satellite campus has been first approved by the superintendent as complying with the minimum criteria prescribed in Section 94311, as added by Senate Bill 190 in the 1989-90 Regular Session of the Legislature, or Section 94311.1, whichever is applicable, and unless the institution complies with this chapter.

94316.10. (a) Before a person executes an agreement obligating that person to pay any money to an institution for a course of instruction or related materials, the institution shall provide the person with all of the following:

(1) A copy of the agreement.

(2) If the institution has offered the course of instruction for at least one year, it shall provide orally and in writing all of the following information:

(A) The completion rate for students in the course of instruction for the most recent calendar year that ended not less than 18 months prior to the date of disclosure. This rate shall be calculated by determining the percentage of students enrolled in the course of instruction who were originally scheduled, at the time of enrollment, to complete the course of instruction in that calendar year that successfully completed the course of instruction, or obtained full-time employment in the occupation or job title category for which the training was offered, within 150 percent of the amount of time normally required to complete the course of instruction.

(B) The job placement rate for students who were originally scheduled, at the time of enrollment, to complete the course of instruction in the most recent calendar year that ended not less than 18 months prior to the date of disclosure. In calculating this rate, the institution shall consider as not having obtained employment any graduate or other student for whom the institution does not possess evidence, documented in the student's file, showing that the graduate or other student has obtained employment in the occupation or job title category for which the course of instruction is offered.

(C) Any other information necessary to substantiate the truth of any claim made by the institution as to job placement.

(D) If the institution or a representative of the institution makes any express or implied claim about the salary which may be earned after completing a course of instruction, such as a claim that the student may be able to repay a student loan from the salary received at a job obtained following completion of the course of instruction:

(i) The percentage of students who were originally scheduled, at the time of enrollment, to complete the course of instruction in the most recent calendar year that ended not less than six months prior to the date of disclosure who earn salaries at or above the claimed level.

(ii) The ranges of monthly salaries earned by these students in two hundred dollar ($200) increments and the number of these students in each salary range.

(E) If the institution or a representative of the institution in any manner represents that the course of instruction might lead to employment in an occupation or job title for which a state licensing examination is required:

(i) All licensure or certification requirements established by the state for the occupation or job title category.

(ii) The pass rate of graduates of the course of instruction for the most recent calendar year that ended not less than six months prior to the date of disclosure on any licensure or certification examination required by the state for the particular occupation or job title.

(3) If the institution has offered the course of instruction for less than one year, the following statement: "This course is new. We are not able to tell you how many students graduate, how many students find jobs, or how much money you can earn after finishing this course."

(4) A current catalog or brochure containing information describing the courses offered, program objectives, length of program, faculty and their qualifications, schedule of tuition payments, fees, and all other charges and expenses necessary for completion of the course of instruction cancellation and refund rights, the total cost of tuition over the entire period, and all other material facts concerning the institution and the course of instruction that might reasonably affect the student's decision to enroll.

(b) The information required by paragraph (2) of subdivision (a) shall be based on an inquiry by the institution and shall be documented by a list indicating the student's name, address, and telephone number; the employee's name, address, and telephone number; the name and address or telephone number of the person who provided the information to the institution; the name, title, or description of the job; the date the student obtained the job; and the amount of the salary, if any salary claim has been made.

(c) No institution which has offered a course of instruction for less than one year shall make any express or implied claims about the salary that a student may earn after completing the course of instruction.

(d) The institution shall provide the catalog or brochure described in paragraph (4) of subdivision (a) to any person upon request.

(e) The written disclosure of information required by subparagraphs (A), (B), and (E) of paragraph (2) of subdivision (a) may be made on the form prescribed in Appendix A, Form I, in 34 Code of Federal Regulations, Part 668, or any other similar form prescribed by law for the disclosure of that information.

(f) No institution shall obtain the signature of any person to an agreement obligating that person to pay any money to the institution until the person has had a reasonable opportunity to read and review all of the items described in subdivision (a).

(g) For the purpose of subdivision (a), a student is "originally scheduled, at the time of enrollment, to complete the course of instruction" on the date when the student will have been enrolled in the course of instruction for the amount of time normally required to complete the course of instruction. The "amount of time normally required to complete the course of instruction" is the period of time specified in the institution's enrollment contract, catalog, or other materials for completion of the course of instruction by a full-time student, or the period of time between the date of enrollment and the anticipated graduation date appearing on the student's loan application (if any), whichever is less. However, the "amount of time normally required to complete the program" shall be calculated on a pro rata basis for students enrolled on a less than full-time basis.

(h) The disclosure of any information pursuant to Section 94316.4 shall not relieve any institution of any obligation to make any disclosure required under this section.

94316.12. If a state board, bureau, department, or agency has established the minimum number of classes or class hours or the minimum criteria of a course of instruction necessary for licensure in an occupation and an institution offers a course of instruction differing from the state agency's minimum requirements, the institution shall disclose orally and in writing the state agency's minimum requirements and how the course of instruction differs from those criteria. The institution shall make this disclosure before a prospective student executes an agreement obligating that person to pay any money to the institution for the course of instruction.

94316.14. (a) Every institution shall file annually with the superintendent, on July 1, or another date designated by the superintendent, a report subscribed under penalty of perjury that contains all of the following:

(1) The information described in subdivisions (a) and (b) of Section 94316.5.

(2) The information described in paragraph (2) of subdivision (a) of Section 94316.10.

(3) A statement that the information is documented as provided in subdivision (c) of Section 94316.5 and subdivision (b) of Section 94316.10.

(4) Financial information demonstrating compliance with subdivisions (b), (c), (d), (e), and (f) of Section 94316.6.

(5) Any additional information that the superintendent may prescribe.

(b) The superintendent shall maintain each report for 10 years and shall provide copies of the reports to any person upon request.

(c) Based on the review of the information submitted pursuant to this section, the superintendent may initiate a compliance review, may take action including placing the institution on probation as provided in Section 94319.10, or may require evidence of compliance with this article in a form satisfactory to the superintendent.

94316.15. (a) An institution shall notify the superintendent in writing at least 30 days before the institution (1) increases the amount of any salary, dividend, distribution, or cash draw paid to any person in a calendar year by twenty thousand dollars ($20,000) or more than the amount paid to that person during the prior calendar year, (2) pays one or more salary advances to any person in an aggregate amount of twenty thousand dollars ($20,000) or more, or (3) makes or guarantees loans to any person in an aggregate amount of ten thousand dollars ($10,000) or more. The notice shall contain the amount to be paid, the amount paid during the calendar year, and the name of the recipient.

(b) If the superintendent determines that the proposed payment, loan, or loan guarantee would cause the institution to violate the financial and fiduciary standards required under this chapter, the superintendent shall so notify the institution. The superintendent shall take appropriate action to prevent any proposed violation of this chapter.

(c) The superintendent shall not disclose the notice filed pursuant to subdivision (a) to any person except in an administrative or judicial proceeding or as required by any law or by subpoena or court order.

94316.16. Except as provided in Section 94319.5, an institution shall not disclose the records maintained pursuant to subdivision (c) of Section 94316.5 and subdivision (b) of Section 94316.10 unless production of those records are required by any law or by subpoena or court order.

94316.18. Every institution shall designate an agent for service of process within this state and provide the name, address, and telephone number of the agent to the superintendent. The superintendent shall furnish the agent's name, address, and telephone number to any person upon request.

94316.20. (a) When a person executes an agreement obligating that person to pay any money to an institution for a course of instruction or related materials, the institution shall provide the person with a document containing only the following notice:

"NOTICE OF STUDENT RIGHTS

(12-point bold type)

"1. You may cancel your contract for school, without any penalty or obligation as described in the Notice of Cancellation form that will be given to you at (insert 'the first class you go to' 'or with the first lesson in a home study or correspondence course,' whichever is applicable). Read the Notice of Cancellation form for an explanation of your cancellation rights and responsibilities. If you have lost your Notice of Cancellation form, ask the school for a sample copy.

"2. You have the right to stop school at any time and receive a refund for the part of the course not taken. Your refund rights are described in the contract. If you have lost your contract, ask the school for a description of the refund policy.

"3. If the school closes before you graduate, you may be entitled to a refund. Contact the (insert Superintendent of Public Instruction or name of successor agency, whichever applies) at the address and telephone number printed below for information.

"4. If you have any complaints, questions, or problems which you cannot work out with the school, write or call:

(insert name, address, and telephone number of Superintendent of Public Instruction or of successor agency, whichever applies)

(b) Except as otherwise provided in subdivision (a), the notice required by subdivision (a) shall be printed in 10-point type in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

(c) A copy of the notice, in each language in which the notice was printed pursuant to subdivision (b), shall be posted at all times in a conspicuous place at the main entrance of the institution, in each admissions office, and in each room used for instruction. The superintendent may prescribe the size and format of the posted notice.

(d) Upon request, the institution shall provide a student with a copy of a Notice by Cancellation form, a written description of the student's refund rights, and a copy of the contract executed by the student.

(e) The superintendent may provide for the inclusion of additional information in the notice set forth in subdivision (a).

94316.22. (a) The institution shall submit a copy to the superintendent, at the time of filing, of each return and report of wages required pursuant to Section 1088 of the Unemployment Insurance Code.

(b) (1) The institution shall file biennially with the superintendent, an audit report of financial statements conducted by a licensed certified public accountant in accordance with generally accepted auditing standards. The report shall include the financial information required by subdivisions (b) to (f), inclusive, of Section 94319.6 and average monthly expenditures. Work papers for the audit shall be retained for five years from the date of the audit report and shall be made available to the superintendent upon request after the completion of the audit.

(2) If an institution submits an audited financial report meeting the requirements of paragraph (1) to the United States Department of Education and if that report was prepared within six months of the time a report is required to be filed under paragraph (1), the institution may comply with paragraph (1) by submitting a copy of that report to the superintendent.

94316.24. (a) No institution shall pay any consideration to any agent, subject to Section 94333, who has not complied with that section, or enter into an agreement, as described in Section 94319, with any person who was recruited or solicited to enroll in that institution by an agent who was not in compliance with Section 94333 at the time of the recruitment or solicitation.

(b) No institution shall pay any consideration to any agency, subject to Section 94334, that has not complied with that section, or enter into an agreement, as described in Section 94319, with any person who was recruited or solicited to enroll in that institution by an agency or by an agent employed by or under contract with the agency if the agency was not in compliance with Section 94334 at the time of the recruitment or solicitation.

94316.26. The enrollment, course completion, and employment data used to determine compliance with subdivisions (a) and (b) of Section 94316.5 and paragraph (2) of subdivision (a) of Section 94316.10 shall continue to apply to an institution notwithstanding a change in the institution's ownership, name, or identification number.

94317. (a) In addition to any other right of rescission, the student shall have the right to cancel an agreement for a course of instruction including any equipment or other goods and services included in the agreement, until midnight of the fifth business day after the day on which the student (1) attended the first class of the course of instruction which is the subject of the agreement or (2) received the first lesson in a home study or correspondence course. If the first lesson in a home study or correspondence course is sent to the student by mail, the institution shall send it by first-class mail, postage prepaid, documented by a certificate of mailing, and the student shall have a right to cancel until midnight of the eighth business day after the first lesson was mailed.

(b) Cancellation shall occur when the student gives written notice of cancellation to the institution at the address specified in the agreement.

(c) The written notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) The written notice of cancellation need not take a particular form and, however expressed, is effective if it indicates the student's desire not to be bound by the agreement.

(e) Except as provided in subdivision (f), if the student cancels the agreement, the student shall have no liability, and the institution shall refund any consideration paid by the student within 10 days after the institution receives notice of the cancellation.

(f) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the Notice of Cancellation. If the student fails to return the equipment within this 10-day period, the institution may retain that portion of the consideration paid by the student equal to the price of the equipment itemized in the agreement and shall refund the portion of the consideration exceeding the price of the equipment as provided in subdivision (e). The student may retain the equipment without further liability.

94317.5. (a) The institution shall provide the student with two cancellation forms at the first class attended by the student or with the first lesson in a home study course submitted by the student. The form shall be completed in duplicate, captioned "Notice of Cancellation," and shall contain the following statement:

> "Notice of Cancellation
>
> (Date)
>
> [Enter date of first class, date first lesson received, or date first lesson was mailed, whichever is applicable.]
>
> "You may cancel this contract for school, without any penalty or obligation, within (insert "five business days" or "eight business days," whichever is applicable) from the above date.
>
> "If you cancel, any payment you have made and any negotiable instrument signed by you shall be returned to you within 10 days following the school's receipt of your cancellation notice.
>
> "But, if the school gave you any equipment, you must return the equipment within 10 days of the date you signed a cancellation notice. If you do not return the equipment within this 10-day period, the school may keep an amount out of what you paid that equals the price of the equipment written in the contract. The school is required to refund any amount over that as provided above, and you may keep the equipment.
>
> "To cancel the contract for school, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to ____, (name of institution) (address of institution), NOT LATER THAN [enter midnight of the date that is the fifth business day following the day of the first class or the day the first lesson was received or, if the lesson was sent by mail, the eighth business day following the day of mailing, whichever is applicable]
>
> "I cancel the contract for school.
>
> (Date)
>
> (Student's signature)
>
> "REMEMBER, YOU MUST CANCEL IN WRITING. You do not have the right to cancel by just telephoning the school or by not coming to class.

If you have any complaints, questions, or problems which you cannot work out with the school, write or call: (insert name, address, and telephone number of Superintendent of Public Instruction or of successor agency, whichever applies)"

94318. (a) Each student of an institution has the right to withdraw from a course of instruction at any time.

(b) If a student withdraws from a course of instruction after the period described in subdivision (a) of Section 94317, the institution shall remit a refund as provided in Section 94318.5 less a registration fee not exceeding seventy-five dollars ($75) within 10 days following the student's withdrawal.

(c) If any portion of the tuition was paid from the proceeds of a loan, the refund shall be sent to the lender or, if appropriate, to the state or federal agency that guaranteed or reinsured the loan. Any amount of the refund in excess of the unpaid balance of the loan shall be first used to repay any student financial aid programs from which the student received benefits, in proportion to the amount of the benefits received, and any remaining amount shall be paid to the student.

(d) Within 10 days of the day on which the refund is made, the institution shall notify the student in writing of the date on which the refund was made, the amount of the refund, the method of calculating the refund, and the name and address of the entity to which the refund was sent. The following statement shall be placed at the top of the notice in a least 10-point bold face type: "This Notice Is Important. Keep It For Your Records."

94318.5. (a) Except as provided in subdivision (d), (e), or (f), the refund shall be the total price specified in the agreement multiplied by a fraction determined pursuant to subdivisions (b) and (c).

(b) The numerator of the fraction shall be (1) the number of classes or hours remaining in a course with a fixed class schedule after the student's withdrawal, (2) the number of classes or hours remaining in a course without a fixed class schedule after the student's withdrawal, or (3) the number of lessons remaining in a home study or correspondence course after the student's withdrawal, whichever is applicable.

(c) The denominator of the fraction shall be the total number of classes or hours in a course with a fixed class schedule, the total number of classes or hours necessary to complete a class without a fixed class schedule, or the total number of lessons in a home study or correspondence course, whichever is applicable.

(d) If the institution specifies in the agreement for a course of instruction a separate charge for equipment which the student actually obtains and the student fails to return that equipment in good condition, allowing for reasonable wear and tear, within 10 days following the date of the student's withdrawal, the institution may offset against the refund calculated under subdivision (a) the amount specified in the agreement for equipment. The student shall be liable for the amount, if any, by which the amount for equipment exceeds the refund amount calculated under subdivision (a).

(e) If the institution specifies in the agreement for a course of instruction a separate charge for equipment which the student has not obtained at the time of the student's withdrawal, the refund shall be calculated by multiplying the fraction described in subdivisions (b) and (c) by an amount equal to the total price less the charge specified in the agreement for the equipment.

(f) If the total price specified in an agreement for a home study or correspondence course includes a portion for resident instruction which the student has not begun at the time of the student's withdrawal, the refund shall be calculated by multiplying the fraction described in subdivisions (b) and (c) by an amount equal to the total price less the charge specified in the agreement for the resident instruction or, if no charge is specified, the greater of the value which the institution represented the resident portion to be worth or the amount of the total price allocable to the portion for resident instruction.

(g) For the purpose of determining a refund under this section, a student shall be deemed to have withdrawn from a course of instruction when any of the following occur:

(1) The student notifies the institution of the student's withdrawal or of the date of the student's withdrawal, whichever is later.

(2) The institution terminates the student's enrollment as provided in the agreement.

(3) The student has failed to attend classes for a three-week period. For the purpose of this paragraph, the date of the student's withdrawal shall be deemed the last date of recorded attendance.

(4) The student has failed to submit three consecutive completed lessons or has failed to submit a completed lesson within 60 days of its due date as required in a home study or correspondence course. For the purpose of this paragraph, the date of

the student's withdrawal shall be deemed to be the date on which the student submitted the last completed lesson.

(h) An institution shall have the burden of proof to establish the number of classes or hours remaining in a class without a fixed class schedule after a student's withdrawal, and the amount of the total price of a home study or correspondence course allocable to the portion for resident instruction. The institution shall maintain records for five years of all the evidence on which the institution relies.

94319. (a) No institution shall offer any course of instruction to any person, or receive any consideration from any person for a course of instruction, except pursuant to a written agreement as described in this section. Every agreement for a course of instruction shall provide the following:

(1) A general description of the course of instruction and any equipment to be provided.

(2) The total number of classes, hours, or lessons required to complete the course of instruction.

(3) The total amount which the student is obligated to pay including all fees, charges, and expenses separately itemized that must be paid to complete the course of instruction. The total amount shall be underlined and shall appear immediately above the following notice, which shall be printed above the space on the agreement that is reserved for the student's signature:

> "YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU GET A STUDENT LOAN, YOU ARE RESPONSIBLE FOR REPAYING THE LOAN AMOUNT PLUS ANY INTEREST."

(4) The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment's fair market value. The institution shall have the burden of proof to establish the equipment's fair market value.

(5) A schedule of payments.

(6) The student's right to withdraw from the course of instruction and obtain a refund and an explanation of refund rights and of how the amount of the refund will be determined including a hypothetical example.

(7) A detailed explanation of the student's right to cancel the agreement as provided in Section 94317.

(8) The following statement printed in 12-point boldface type on the first page of the agreement:

"If you have any complaints, questions, or problems which you cannot work out with the school, write or call:

(insert name, address, and telephone number of Superintendent of Public Instruction or of successor agency, whichever applies)."

(b) Unless otherwise provided in subdivision (a), the institution shall provide the information required under Sections 94316.10, 94317, 94317.5, and subdivision (a) of this section in at least 10-point type in English and, if any solicitation or negotiation leading to the agreement for a course of instruction was in a language other than English, in that other language.

94319.2. (a) An institution shall not enter into an agreement for a course of instruction with a student unless the institution first administers to the student and the student passes a test that establishes the student's ability to benefit from the course of instruction.

(b) (1) No later than March 1, 1990, the superintendent shall publish a list of tests and their respective passing scores, time limits, and testing rules, which shall be used by institutions, on and after that date, to test a student's ability to benefit from a course of instruction. The superintendent shall indicate whether a particular test is generally applicable or, instead, is to be used only for one or more specific courses of instruction. From April 1, 1990, to June 30, 1991, inclusive, all institutions shall use one or more of the appropriate tests on that list in order to comply with subdivision (a). No later than July 1, 1990, the superintendent shall adopt the procedure that he or she will use in approving tests, the respective passing scores for those tests, testing time limits, and testing rules for purposes of paragraph (2).

(2) Subject to subdivision (c), the superintendent shall approve, no later than July 1, 1991, each test and the passing score for that test to be used to establish the student's ability to benefit from each course of instruction for which that test will be used, as well as testing time limits and testing rules. On and after July 1, 1991, in order to comply with subdivision (a), each institution shall use only the tests, the respective passing scores for those tests, testing time limits, and testing rules approved by the superintendent pursuant to this paragraph, as may be subsequently modified by the superintendent.

(3) The superintendent may approve nationally recognized standardized tests for use in testing a student's ability to benefit from a particular course of instruction.

(c) The institution shall have the burden of establishing to the superintendent's reasonable satisfaction that the test is a reliable and valid indicator of a student's ability to benefit from the course of instruction when administered in accordance with the test's instructions, rules, and time limits, that the minimum passing score is appropriate, and that the institution administers the test in accordance with the test's instructions, rules, and time limits.

(d) The superintendent shall not approve any test unless the superintendent concludes that sufficient data derived from reliable and valid studies and evaluations reasonably establish that the test is a reliable and valid indicator of a student's ability to benefit from the course of instruction.

(e) The test shall be completed solely by the student. No institution or any person in any manner associated with the institution shall (1) answer any of the test questions, or (2) provide any assistance whatsoever to the student in answering test questions. If a prospective student has failed a test, no institution shall administer another test to that prospective student for at least 60 days. Any subsequent test administered by an institution to the same prospective student shall be substantially different than the preceding test and shall be approved by the superintendent as provided in this section.

94319.4. (a) If a course of instruction is based on a sequence of classes or lessons and the learning experience to be derived from any class or lesson within the sequence is based in any manner on a student's attendance at or completion of a prior class or lesson, an institution shall not enroll a student in that course of instruction unless the instruction begins with the first class or lesson and proceeds in the appropriate sequence.

(b) (1) If a course of instruction is based on a series of modules of classes or lessons and the learning experience to be derived from any module is based on a student's attendance at or completion of any classes or lessons in any other module, an institution shall not enroll a student in that course of instruction unless the instruction begins and proceeds in the appropriate sequence.

(2) If a course of instruction is based on a series of modules of classes or lessons and the learning experience to be derived from any module is not based on a student's attendance at or completion of any classes or lessons in any other module, an institution shall only enroll a student if the course of instruction begins with the first class or lesson in a module.

(c) The superintendent, at any time, may determine whether the learning experience to be derived from any class or lesson in a sequence of classes or lessons or from any module is based in any manner on a student's attendance at, or completion of, a prior class or lesson in the sequence or any class or lessons in any other module. The superintendent may make the determination described in this subdivision upon the application of any person or when the superintendent deems that a determination is appropriate. The institution shall have the burden to establish compliance with this section.

(d) The institution shall not merge classes unless all of the students have received the same amount of instruction and training.

(e) After a student has enrolled in a course of instruction, the institution shall not do any of the following:

(1) Make any unscheduled suspension of any class.

(2) Change the day or time in which any class is offered unless at least 90 percent of the students who are enrolled consent to the change and the institution offers full refunds to the students who do not consent to the change. This subdivision does not apply to a change in the day or time of individual class sessions if there are no more than three changes in a six-month period or if all of the students agree to the change.

(f) If an institution enrolls a student in a course of instruction that is not offered or designed as a home study or correspondence course at the time of enrollment, the institution shall not convert the course of instruction from classroom instruction to a home study or correspondence course.

(g) An institution shall not move the class instruction to a location more than one mile from the location of instruction at the time of enrollment unless the institution offers a full refund to students enrolled in the class.

94319.5. (a) Every institution shall maintain for a period of not less than five years at its principal place of business in California accurate records that show all of the following:

(1) The names, telephone numbers, and home and local addresses of each student.

(2) The courses of instruction offered by the institution and the curriculum for each course.

(3) The name, address, and educational qualifications of each member of its faculty.

(4) The information required by subdivision (c) of Section 94316.5 and subdivision (b) of Section 94316.10.

(5) All information required by the superintendent.

(b) All records maintained by an institution shall be made immediately available for inspection and copying during normal business hours by the superintendent, the Attorney General, any district attorney or city attorney, and the Student Aid Commission.

(c) An institution shall make available to a student, or a person designated by the student, all of the student's records, except for transcripts of grades where the student is in default on one or more loans as provided in subdivision (b) of Section 94343.6.

(d) Each institution shall be deemed to have authorized the accrediting agency which accredited the institution to provide to the superintendent, the Attorney General, any district attorney or city attorney, or the Student Aid Commission, within 30 days of written notice, copies of all documents and other material concerning the institution that is maintained by the accrediting agency.

(e) Within 30 days of receiving written notice from the superintendent, the Attorney General, any district attorney or city attorney, or the Student Aid Commission, an accrediting agency shall provide the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice.

(f) If the superintendent, the Attorney General, any district attorney or city attorney, or the Student Aid Commission is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation.

(g) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars ($2,500) nor more than twenty-five thousand dollars ($25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary Education Administration Fund or any successor fund.

94319.6. (a) The institution shall provide sufficient instruction and materials pursuant to a planned curriculum appropriate to the student's educational program and establish sufficient student attendance, progress, and performance standards to reasonably assure that students acquire the necessary level of education, training, skill, and experience to obtain employment in the occupation or job title to which the course of instruction is represented to lead.

(b) The institution shall provide each student with sufficient materials, including current publications and equipment, no later than the time the materials are appropriate for use in the course of instruction.

(c) If a student has begun a course of instruction and any portion of the student's tuition is to be paid from the proceeds of a loan or grant, the institution shall not withhold any instruction, equipment, or materials from the student pending approval of the loan or grant or the disbursement of any portion of the proceeds of the loan or grant.

94319.7. (a) This chapter shall not apply to individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences.

(b) Institutions certified to offer flight instruction by the Federal Aviation Administration, or its successor agency, are not required to file any materials with the superintendent which are not required by the certifying federal agency except those that the superintendent determines are minimally necessary to administer the Student Tuition Recovery Fund pursuant to Section 94342.

94319.8. No student may waive any provision of this article. Any waiver or limitation of any substantive or procedural right or remedy is in violation of this section and is void and unenforceable.

94319.9. (a) If an institution violates this article in connection with an agreement for a course of instruction, that agreement shall be unenforceable, and the institution shall refund all consideration paid by or on behalf of the student.

(b) Notwithstanding any provision in an agreement, a student may bring an action for a violation of this article or an institution's failure to perform its legal obligations and, upon prevailing, shall be entitled to the recovery of damages, equitable relief, any other relief authorized by this article, and reasonable attorney's fees and costs.

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivision (a) on the student's written demand, the court shall, in addition to the relief awarded under subdivision (b), award a civil penalty of up to two times the amount of the damages sustained by the student.

(d) The remedies provided in this article supplement but do not supplant the remedies provided under other provisions of law.

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

(f) Any provision in any agreement which purports to require a student to invoke any grievance dispute procedure established by the institution or any other procedure before bringing an action to enforce any right on remedy is void and unenforceable.

(g) A student may assign his or her causes of action for a violation of this article to the superintendent, or to any state or federal agency that guaranteed or reinsured a loan for the student or provided any grant or other financial aid.

(h) The section applies to any action pending on the effective date of this section.

94319.10. (a) An institution is legally authorized to offer courses of instruction if the institution complies with this article and has received approval from the superintendent. No institution shall offer any course of instruction if the institution's approval to offer that course of instruction has been suspended or revoked.

(b) The superintendent may suspend or revoke an institution's approval to operate a branch or satellite campus because of any violation of this article.

(c) (1) If, at any time, the superintendent determines that an institution is in violation of this article but that the institution's approval to operate should not be suspended or revoked, the superintendent may place the institution on probation for a specified period of time not to exceed one year.

(2) During the period of probation, the institution shall be subject to monitoring that may include the required submission of periodic reports, as prescribed by the superintendent, and special onsite inspections to determine progress toward compliance.

(3) If, as of the end of the period of probation, the superintendent is not satisfied with the steps taken by the institution to eliminate the violations of this article upon which the probation was based, the superintendent may revoke the institution's approval to operate.

(4) The superintendent may assess a penalty of up to ten thousand dollars ($10,000) as part of an order placing an institution on probation for violations of this article. In determining the amount of that penalty, the superintendent shall consider the number and gravity of the violations, the degree of the institution's good faith or culpability, the history of the institution's previous violations, and the institution's ability to pay. If the institution fails to pay a penalty within 30 days after the effec-

tive date of the superintendent's decision, the institution's approval to operate shall be automatically suspended.

(d) The superintendent shall determine an institution's compliance with this article without regard to the findings or conclusions of any accrediting agency.

(e) Proceedings by the superintendent under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the superintendent shall have all of the powers granted therein.

94319.11. The suspension or revocation of an institution's approval to operate may also be embraced in any action otherwise proper in any court involving the institution's compliance with this chapter or performance of its legal obligations.

94319.12. (a) If the superintendent has evidence that an institution has violated this article and determines that immediate action is necessary to protect students, prevent misrepresentations to the public, or prevent the loss of public funds or tuition and other money paid by students, the superintendent may institute an emergency action to suspend, for not more than 60 days, the approval of an institution to operate.

(b) The superintendent shall provide notice of the emergency action to the institution by certified mail or personal service. The notice shall specify the alleged violations on which the emergency action is based, the effective date of the action, and the right of the institution to request a hearing within 30 days of the service of the notice. If a hearing is requested, the superintendent shall set a date within 20 days after receipt of the request.

(c) The superintendent may terminate the emergency action at any time if the superintendent concludes that the grounds for instituting the emergency action no longer remain.

(d) If the institution does not request a hearing within the time specified in subdivision (b) or if the superintendent concludes after a hearing that grounds exist for the suspension or revocation of the institution's approval to operate, the superintendent may permanently suspend or revoke the institution's approval to operate, may order probation and a penalty, or may condition the institution's approval to operate as the superintendent deems appropriate.

(e) During the pendency of an emergency action, the superintendent may investigate the institution's compliance with this article and may institute a proceeding pursuant to Section 94319.10 to suspend or revoke an institution's approval to operate, or order probation and a penalty, based on any violation of this article.

(f) This section supplements but does not supplant the authority of the superintendent to seek judicial relief, including a temporary restraining order and injunction, to redress any violation of this article.

94319.13. This article, except for subdivisions (a), (h), and (i) of Section 94316.6 and Sections 94316.8, 94319.2, 94319.4, 94319.10, 94319.11, and 94319.12, applies to schools that offer instruction in how to prepare for, take, and pass civil service examinations or other tests qualifying a student for employment by a governmental entity. For the purpose of determining compliance with this article, schools described in this section shall be considered "institutions."

94319.14. (a) Notwithstanding Section 94336, any person or business entity, regardless of the form of organization, that willfully violates this article or Section 94320 or 94321 is guilty of a crime and is subject to separate punishment for each violation either by (1) imprisonment in the state prison, by a fine not exceeding fifty thousand dollars ($50,000), or by both the fine and imprisonment or (2) imprisonment in the county jail for not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment.

(b) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

94319.16. The superintendent may adopt and enforce regulations as may be necessary, appropriate, or useful to interpret and otherwise implement this article. Pending the adoption of formal regulations, the superintendent may adopt temporary regulations, which shall be immediately effective, notwithstanding any other provision of law, and which shall be superseded upon the adoption of formal regulations.

94319.18. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or ap-

87

plications of the article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Article 3. Prohibited Activities

94320. No institution, or representative of that institution shall: (a) Operate in this state a postsecondary or vocational educational institution not exempted from this chapter, unless the institution is currently approved to operate issued pursuant to this chapter.

(b) Offer, as or through an agent, enrollment or instruction in, or the granting of educational credentials from, an institution not exempted from this chapter, whether that institution is within or outside this state, unless that agent is a natural person and has a currently valid agent's permit issued pursuant to this chapter, nor accept contracts or enrollment applications from an agent who does not have a current permit as required by this chapter, provided, that the council may adopt rules and regulations to permit the rendering of legitimate public information services without a permit.

(c) Instruct or educate, or offer to instruct or educate, including soliciting for those purposes, enroll or offer to enroll, contract or offer to contract with any person for that purpose, or award any educational credential, or contract with any institution or party to perform any act, in this state, whether that person, agent, group, or entity is located within or without this state, unless that person, agent, group, or entity observes and is in compliance with the minimum standards set forth in Section 94312 or Article 2.5 (commencing with Section 94316), whichever is applicable, the criteria established by the council pursuant to subdivision (b) of Section 94305, and the rules and regulations adopted by the council pursuant to subdivision (d) of Section 94305.

(d) Use, or allow the use of, any reproduction or facsimile of the Great Seal of the State of California on any diploma.

(e) Make, or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if that person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate, or misleading.

(f) Promise or guarantee employment.

(g) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(h) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(i) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(j) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school or institution.

(k) Use the terms "approval," "approved," "approval to operate," or "approved to operate," without stating clearly and conspicuously that the approval to operate does not imply an endorsement or recommendation by the state or by the council.

() State or imply that the council's grant to the institution of approval to operate indicates that the institution exceeds minimum state standards, or that the council or the state endorses or recommends the institution.

(m) Fail to comply with federal requirements relating to the disclosure of information to students regarding vocational and career training programs, as described in subdivision (i) of Section 94312.

94321. (a) Any institution willfully violating any provision of Section 94312 or 94320 shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred, and any willful violation is a ground for revoking an approval to operate in this state or for denying a renewal application.

(b) Notwithstanding any provision of the contract or agreement, a student may bring an action for a violation of this article or for an institution's failure to perform its legal obligations and, upon prevailing thereon, shall be entitled to the recovery of damages, equitable relief, or any other relief authorized by this article, and reasonable attorney's fees and costs.

(c) If a court finds that a violation was willfully committed or that the institution failed to refund all consideration as required by subdivision (b) on the student's written demand, the court shall, in addition to the relief authorized under subdivision (b), award a civil penalty of up to two times the amount of the damages sustained by the student.

(d) The remedies provided in this article supplement but do not supplant the remedies provided under other provisions of law.

(e) An action brought under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the action.

(f) Any provision in any agreement which purports to require a student to invoke any grievance dispute procedure established by the institution before enforcing any right or remedy is void and unenforceable.

(g) A student may assign his or her cause of action for a violation of this article to the council, or to any state or federal agency that guaranteed or reinsured a loan for the student or that provided any grant or other financial aid.

(h) This section applies to any action pending on the effective date of this section.

(i) This section shall supplement and not displace the authority granted the Division of Labor Law Enforcement under Section 1700.4 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under the Labor Code.

94322. (a) If the council has evidence that an institution has violated this article and determines that immediate action is necessary to protect students, prevent misrepresentations to the public, or prevent the loss of public funds or tuition and other money paid by students, the council may institute an emergency action to suspend, for not more than 60 days, the approval of an institution to operate.

(b) The council shall provide notice of the emergency action to the institution by certified mail or personal service. The notice shall specify the alleged violations on which the emergency action is based, the effective date of the order implementing the emergency action, and the right of the institution to request a hearing within 30 days of the service of the notice. If a hearing is requested, the council shall set a date within 20 days after receipt of the request.

(c) If the council's proposed action calls for an immediate suspension of the institution, the institution, notwithstanding subdivision (b), shall be provided an opportunity for a hearing by the council within 24 hours of receiving notification and before an emergency action is initiated. If the council decides after the hearing to take the emergency action, the institution shall not be precluded from requesting a second hearing within 30 days of the emergency action.

(d) The council may terminate the emergency action at any time if the council concludes that the grounds for instituting the emergency action no longer remain.

(e) If the institution does not request a hearing within the time specified in subdivision (b) or if the council concludes after a hearing that grounds exist for the suspension or revocation of the institution's approval to offer courses of instruction, the council may permanently suspend or revoke the institution's approval to operate, may order probation and a penalty, or may condition the institution's approval to operate as the council deems appropriate.

(f) During the pendency of an emergency action, the council may investigate the institution's compliance with this article and may institute a proceeding under Section 94319.10 to suspend or revoke an institution's approval to operate, or order probation and a penalty, based upon any violation of this article.

(g) This section supplements but does not supplant the authority of the council to seek judicial relief, including a temporary restraining order and injunction, to redress any violation of this article.

Article 5. Applications and Causes for Denial

94330. (a) Each institution desiring to operate in this state shall make application to the council, upon forms to be provided by the council. The application shall include, as a minimum, at least the following:

(1) A catalog published or proposed to be published by the institution containing the information specified in the criteria adopted by the council. The catalog shall include specific dates as to when the catalog applies.

(2) A description of the institution's placement assistance, if any.

(3) Copies of media advertising and promotional literature.

(4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness.

(5) Copies of participation agreements for state and federal financial aid programs.

(6) The name and California address of a designated agent upon whom any process, notice, or demand may be served.

(7) The information specified in Section 94312.2.

(8) The institutions most current profit and loss statement and current balance sheet, or an audit prepared by a licensed certified public accountant in accordance with generally accepted auditing standards.

(b) Each application shall be signed and certified under oath by the owners of the school, or where the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the governing body of a nonprofit school.

(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and any investigation of the applicant as the council may deem necessary or appropriate, the council shall either grant or deny approval to operate to the applicant.

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply to any determination of the council made pursuant to this section.

(d) The council shall review and investigate all institutions and courses of instruction approved under this chapter. Consideration in the scheduling of reviews and investigations shall be afforded to student complaints and information collected by the Attorney General, the Student Aid Commission, any board within the Department of Consumer Affairs, or any other federal, state, or local agency.

(e) The approval to operate shall be issued to the owner or the governing body of the applicant institution, and shall be nontransferrable. Any person, partnership, or corporation that makes a proper application and complies with this chapter and each standard, rule, and regulation pertaining to this chapter shall be qualified to receive an approval to operate or an approval of the transfer of ownership.

(f) In the event that a shift in control or change of ownership of an institution occurs, an application for approval for the institution under the changed ownership shall be filed with the council at least 20 days prior to the shift in control or change in ownership. Whenever an owner, partnership, or corporation operates an institution at different locations, an application for approval shall be filed for each location.

(g) No application for ownership or transfer of ownership shall be approved for any applicant that has been previously found in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(h) No change in ownership of the institution shall be made until the application is approved. Upon approval of a change in ownership, the council shall give written notice to the Student Aid Commission.

(i) For the purposes of this section, a change in ownership occurs when there is a change of control of the institution, or where a person, partnership, or corporation which did not previously own at least 25 percent of the stock or controlling interest of an institution or its parent corporation, acquires ownership of at least 25 percent of the stock of the institution or its parent corporation.

(j) At least 60 days prior to the expiration of an approval to operate, the institution shall complete and file with the council an application form for renewal of its approval to operate. The renewal application shall be reviewed and acted upon as provided in this section.

(k) The council may refuse to issue or renew any private postsecondary or vocational educational institution's approval to operate, or may revoke any approval to operate for any one, or any combination, of the following causes:

(1) A violation of this chapter, or any standard, rule, or regulation established under this chapter.

(2) Furnishing false, misleading, or incomplete information to the council, or the failure to furnish information requested by the council.

(3) A finding that an owner, person in control, director, or officer of an institution is not in compliance with Section 94311.5.

(4) A finding that a signatory to an application for an approval to operate was responsible for the closure of any institution in which there were unpaid liabilities to the state or federal government, or uncompensated pecuniary losses suffered by students without restitution.

(5) The failure of the institution to maintain the minimum educational standards prescribed by this chapter, or to maintain standards which are the same as, or substantially equivalent to, those represented in the school's applications and advertising.

(6) Presenting to prospective students information which is false or misleading relating to the school, to employment opportunities, or to enrollment opportunities in institutions of higher learning after entering into or completing courses offered by the school.

(7) The failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered as required by statute.

(8) The failure to provide timely and correct refunds to students.

(9) Paying a commission or valuable consideration to any persons for acts or services in violation of this chapter.

(10) Attempting to confer a degree, diploma, or certificate to any student in violation of this chapter.

(11) Misrepresenting to any students or prospective students that they are qualified, upon completion of any course, for admission to professional examination under any state occupational licensing provision.

(12) The failure to correct any deficiency or act of noncompliance under this chapter, or the standards, rules, and regulations, established and adopted under this chapter within reasonable time limits set by the council.

(13) The conducting of business or instructional services at any location not approved by the council.

If there is reasonable cause to believe that there has been a violation by a private postsecondary or vocational educational institution of the standards prescribed by this chapter, the council shall conduct an investigation of the institution.

(l) Proceedings in connection with the denial of an application for approval to operate or the revocation of an approval to operate shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the council shall have all of the powers granted in that chapter.

(m) Upon taking any action to suspend or revoke an institution's approval to operate, the council shall provide written notice to the Student Aid Commission and to any appropriate accrediting association.

Article 6. Fees

94331. The council shall establish and maintain a Private Postsecondary and Vocational Education Administration Fund. The fund shall be divided into two special accounts, pursuant to the requirements of subdivision (g) of Section 94304. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for the administration of this chapter. The money in the fund is continuously appropriated to the council without regard to fiscal years.

However, if the Legislature makes an appropriation for the support of the council in the Budget Act of any fiscal year, the amount for the support of the council expended from the respective accounts of the Private Postsecondary and Vocational Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval of private institutions operating under this chapter, the council shall charge an amount not exceeding the actual costs of approving the private institutions. On or before January 1, 1992, and based on the budget requirements identified in the report to the Legislature prepared by the advisory committee established by the California Postsecondary Education Commission for those purposes, the council shall adopt a fee schedule for all institutions approved under the provisions of this chapter, including the maximum amounts to be charged for an institution's initial application and annual renewal. The fee schedule shall provide adequate resources for the council to implement effectively the provisions of this chapter. It is the intent of the Legislature that the council shall adopt a fee schedule that reflects the size of the institution, with institutions enrolling a larger number of students being required to pay a larger annual fee than those with smaller student enrollments. The council shall annually present its proposed budget and fee schedule to the Department of Finance and the Joint Legislative Budget Committee for their review as part of the annual budget process. The council shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make this schedule generally available to the public. The fees may be increased up to the maximum allowable level by a majority vote of the council, without any additional review and approval by the Office of Administrative Law. Increases above the maximum level shall be changed through legislation enacted by the Legislature and signed by the Governor.

94331.5. Until the council establishes the fee schedule required by Section 94331, the following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For an approval to issue specified degrees pursuant to Section 94310:

(1) Four thousand five hundred dollars ($4,500) for an institution's original application.

(2) An amount not to exceed two thousand five hundred dollars ($2,500) for an institution's annual renewal.

(3) Two thousand five hundred dollars ($2,500) for an institution's additional degree title.

(b) For an approval to issue diplomas or offer courses pursuant to Section 94311:

(1) (A) One thousand dollars ($1,000) for a new institution.

(B) Five hundred dollars ($500) for a new institution of an administrative family.

(C) Two hundred dollars ($200) for a new institution of a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, if that education is limited to instruction in employment and skill training and if it is offered at no charge to those persons receiving that education.

(2) One thousand two hundred dollars ($1,200) for an institution's annual renewal if the institution does not participate in publicly funded student financial assistance programs and enrolls more than 150 students each year. Six hundred dollars ($600) for an institution's annual renewal if the institution does not participate in publicly funded student financial assistance programs and enrolls 150 or fewer students each year. Two thousand five hundred dollars ($2,500) for an institution's annual renewal if the institution does participate in publicly funded student financial assistance programs and enrolls more than 150 students each year. One thousand six hundred dollars ($1,600) for an institution's annual renewal if the institution does participate in publicly funded student financial assistance programs and enrolls 150 or fewer students each year.

(3) One thousand dollars ($1,000) for an institution's change of ownership.

(4) Two hundred fifty dollars ($250) for an institution's change of location.

(c) For an annual filing by an ownership to offer career-related education pursuant to Section 94315: two hundred dollars ($200).

(d) For a private school agent's permit pursuant to Section 94333: twenty-five dollars ($25) annually per applicant.

(e) For agencies with three or fewer employees:

(1) Seven hundred fifty dollars ($750) for an original application.

(2) Five hundred dollars ($500) for the agency's annual renewal.

(3) Five hundred dollars ($500) for the agency's change of ownership.

(f) For agencies with four or more employees:

(1) One thousand five hundred dollars ($1,500) for an original application.

(2) One thousand dollars ($1,000) for the agency's annual renewal.

(3) One thousand dollars ($1,000) for the agency's change of ownership.

94332. (a) Any person claiming damage or loss as a result of any act or practice by a postsecondary or vocational educational institution or its agent, or both, which is a violation of this chapter or of the rules and regulations adopted under this chapter, may file with the council a verified complaint against that institution or against its agent, or both.

The complaint shall set forth the alleged violation and shall contain any other information as may be required by the council.

(b) The council shall investigate any complaint and may attempt to effectuate settlement by persuasion and conciliation.

(c) If, upon all the evidence at a hearing, the council shall find that an institution or its agent, or both, has engaged in or is engaging in, any act or practice which violates this chapter or the rules and regulations adopted under this chapter, the council shall report that evidence to the Attorney General. The council may also, as appropriate, based on its own investigation or the evidence adduced at a hearing, or both, commence an action to revoke an institution's approval to operate or an agent's permit.

(d) Complaints received by the council pertaining to institutions accredited by the Western Association of Schools and Colleges shall be forwarded to the association.

Actions by the council relating to complaints against these institutions shall be limited to the transmittal of this information.

(e) A person entitled to bring an action for the recovery of damages or other relief shall not be required to file a complaint pursuant to this section, or to pursue or exhaust any administrative process or remedy before bringing the action.

94333. (a) Notwithstanding any other provision of this chapter concerning agents, the owner of at least 51 percent of the equitable interest in an institution shall be exempt from this section by virtue of having filed for a permit to operate under Section 94310 or 94311.

No person shall act as an agent, as defined by subdivision (d) of Section 94302, unless that person holds a valid permit issued by the council. Administrators or faculty, or both, who make informational public appearances, but whose primary task is not to serve as a paid recruiter, are exempted from this section.

The application for a permit shall be furnished by the council and shall include the following:

(1) A statement signed by the applicant that he or she has read the provisions of this chapter and the rules and regulations adopted pursuant to this chapter.

(2) A surety bond issued by an admitted surety insurer making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the institution or by the person for whom the issuance of the permit is sought and may extend to cover individuals separately or to provide blanket coverage for all persons to be engaged as representatives of the institution. The bond shall provide for liability in the penal sum of five thousand dollars ($5,000) for each agent to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond, except upon giving 30 days' prior written notice to the council.

(3) A fee as required by Section 94331.

(b) An agent representing more than one institution shall obtain a separate agent's permit and bond for each institution represented.

(c) No person shall be issued a permit if he or she has been previously found in any judicial or administrative proceeding to have violated this chapter, or there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(d) A permit shall be valid for the calendar year in which it is issued, unless sooner revoked or suspended by the council for fraud or misrepresentation in connection with the solicitation for the sale of any course of study for any violation of this chapter, or for the existence of any condition in respect to the permittee or the school he or she represents which, if in existence at the time the permit was issued, would have been grounds for denial of the permit.

(e) The permittee shall carry the permit with him or her for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school, and shall produce the permit for inspection upon the request of any person.

(f) Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply to any determination of the council made pursuant to this section.

(g) The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any permit to expressly or impliedly represent by any means whatever, that the council has made any evaluation, recognition, accreditation, or endorsement of any course of study being offered for sale by the individual.

(h) It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent that the issuance of the permit constitutes an assurance by the council that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in employment or personal earnings for the student.

(i) No agent shall make any untrue or misleading statement or engage in sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(j) The council shall maintain records for five years of each application for a permit and each issuance, denial, termination, suspension, and revocation of a temporary permit or permit.

(k) A student may bring an action for an agent's violation of this chapter or any fraud or misrepresentation and, upon prevailing, shall be entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.

() Any person who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding five thousand dollars ($5,000), or by both.

94334. (a) Except as provided in subdivision (g), any agency, as defined by subdivision (b) of Section 94302, shall be required to hold a valid authorization issued by the council. The application for an authorization shall include all of the following:

(1) A current financial statement prepared by a certified public accountant.

(2) Evidence of a surety bond issued by an admitted surety insurer making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study, or as a result of any violation of this chapter. The term of the bond shall extend over the period of the authorization. The bond shall provide for liability in the penal sum of two hundred fifty thousand dollars ($250,000) for each agency to which coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the council.

(3) A copy of the student disclosure statement to be read and signed by all prospective students referred to institutions by an agency. The student disclosure statement shall include, but shall not be limited to, all of the following:

(A) A statement to the effect that no promise of employment has been made by the agency.

(B) A statement to the effect that repayment of any debt incurred by a student in connection with his or her education will be the sole responsibility of the student.

(C) The amount and terms of any fee to be paid by the student to the agency.

(D) A verbatim statement, as follows:

Any questions or problems concerning this agency should be directed to the Council for Private Postsecondary and Vocational Education, Sacramento, California 95814.

(E) A statement to the effect that the institution or institutions to which the prospective student is referred by the agency has the obligation to make available to the student a catalog or brochure containing information describing all of the following:

(i) The courses offered.

(ii) Program objectives.

(iii) Length of program.

(iv) The faculty and their qualifications.

(v) Schedule of tuition, fees, and all other charges and expenses necessary for the completion of the course of study.

(vi) Cancellation and refund policies.

(vii) Total cost of tuition over the period needed to complete the student's education.

(viii) For vocational training programs, placement data, including program completion rates, placement rates, and starting salaries.

(ix) Other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll in the institution.

(4) Identification of all employees of the agency and their titles, and of all agents under contract with the agency.

(5) Identification of all owners and if the entity is a corporation of the identification of all persons possessing an interest equal to, or in excess, of 10 percent.

(6) Identification of all vendors of educational services for which the agency provides recruitment services.

(7) A signed statement by the applicant that all employees engaged in recruitment activities will be required to read Section 94320.

(b) Within 15 days of receipt of a completed application and prior to issuance of an authorization a representative of the council shall inspect the applicant agency and verify the application. Within 30 days of the inspection the council shall issue the authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application. The council shall deny the authorization of the agency if any owner, officer, or director of the agency has previously been found in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.

(c) Any employee of an authorized agency engaged in student recruitment activities of an authorized agency is exempt from the bond requirements of Section 94333.

(d) Neither the agency nor any of its employees shall make any untrue or misleading statement in the course of any solicitation or recruitment activity or engage in the sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(e) An agency or an employee of an agency shall provide a prospective student with the disclosure statement described in paragraph (3) of subdivision (a) and shall allow the prospective student a sufficient opportunity to read it before soliciting or recruiting him or her for enrollment or referring him or her to an institution. This subdivision shall not apply if the agency or the agency's employee complies with Section 94316.3.

(f) Any institution approved under this chapter shall cease any and all recruitment activities involving the agency upon action by the council to revoke or deny an agency authorization. Failure of the institution to do so upon presentation of notice of the council's action shall be cause to deny or revoke any approval held by that institution.

(g) Any agency engaged in recruiting activities on January 1, 1991, may continue its recruiting activities but shall make an application to the council as required by this section within 30 days of the application becoming available and the council, within 30 days of the receipt of the application, shall issue the authorization for a one-year period or deny authorization. Thereafter, the agency shall possess a current authorization in order to continue to operate.

(h) This section shall not apply to any agency recruiting solely for institutions described in Section 94310.

(i) The council shall maintain records for five years of each application for an authorization, each verification by the council of an authorization, and each denial, issuance, and revocation of an authorization.

(j) A student may bring any action against any agency if the agency or an employee of the agency violates this chapter or commits any fraud or misrepresentation and, upon prevailing, shall be entitled to the recovery of damages, reasonable attorney's fees, and costs. If a court finds that the violation was willfully committed, the court shall, in addition to the award of damages, award a civil penalty of up to two times the amount of damages sustained by the student.

(k) Any person who violates this section is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding five thousand dollars ($5,000), or by both.

94335. (a) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable by any institution within or outside this state governed by this chapter unless at the time of execution of that note, other instrument of indebtedness, or contract, the institution has a valid approval to operate pursuant to this chapter.

(b) No note, other instrument of indebtedness, or contract relating to payment for educational services shall be enforceable by any institution within or outside this state governed by this chapter unless the agent, who enrolled persons to whom educational services were to be rendered or to whom degrees or diplomas were to be granted pursuant to this chapter, held a valid agent's permit at the time of execution of the note, other instrument of indebtedness, or contract.

(c) Any school or institution governed by this chapter extending credit or lending money to any person for tuition, fees, or any charges whatever for educational services to be rendered or furnished shall cause any note, instrument, or other evidence of indebtedness taken in connection with that loan or extension of that credit to be conspicuously marked on the face thereof with the following notice:

> NOTICE:
>
> ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSE WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

In the event the school or institution fails to do so, it shall be liable for any damage or loss suffered or incurred by any subsequent assignee, transferee, or holder of that evidence of indebtedness on account of the absence of that notification.

(d) Notwithstanding the presence or absence of that notification and notwithstanding any agreement in which the student waives the right to assert any claim or defense, the school or institution making that loan or extending that credit and the transferee, assignee, or holder of that evidence of indebtedness, shall be subject to all defenses and claims which could be asserted against the school or institution which was to render or furnish those educational services by any party to that evidence of indebtedness or by the person to whom those educational services were to be rendered or furnished up to the amount remaining to be paid thereon.

(e) Institutions which participate in federal student assistance programs and which comply with the financial disclosure and notification requirements for those programs shall be deemed to be in compliance with the standards prescribed by this section.

94336. (a) Any person or business entity, regardless of the form of organization, that willfully violates Article 2.5 (commencing with Section 94316) or Section 94312 or 94320 is guilty of a crime and shall be subject to separate punishment for each violation either by imprisonment in the county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both, or by imprisonment in the state prison, by a fine not exceeding fifty thousand dollars ($50,000), or by both.

(b) Notwithstanding any other law, any prosecution under this section shall be commenced within three years of the discovery of the facts constituting grounds for commencing the prosecution.

(c) The penalties provided by this section supplement, but do not supplant, the remedies and penalties provided under other law.

94337. (a) The council may adopt and enforce regulations as may be necessary, appropriate, or useful to interpret and implement this chapter. Pending the adoption of formal regulations, the council may adopt temporary regulations which, notwithstanding any provision of law, shall become effective immediately, and which shall be superseded upon the adoption of formal regulations.

(b) If any provision of this chapter or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

94338. Any institution approved by the council pursuant to this chapter may contract with any school district, county superintendent, community college district, or the governing body of an agency maintaining a regional occupational center or program, subject to Section 8092.

94339. (a) The Attorney General, or any district attorney or city attorney may make investigations as may be necessary to carry out the provisions of this chapter, including, but not limited to, investigations of complaints. The council may, jointly, bring actions as may be necessary to enforce the provisions of this chapter, including, but not limited to, civil actions for injunctive relief. In actions brought pursuant to this paragraph, the council shall be represented by the Attorney General.

(b) The Attorney General shall represent the council in any administrative proceedings arising under this chapter.

(c) Nothing in this section or this chapter shall preclude the Attorney General, or any district attorney or city attorney, from:

(1) Bringing any actions on behalf of the people as he or she is empowered by law to bring, including, but not limited to, actions based upon alleged violations of Chapter 5 (commencing with Section 17200) of Part 2, and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code.

(2) Conducting investigations as may be necessary to determine whether there have been violations of the provisions of law specified in paragraph (1) of this subdivision.

(3) Conducting any investigations that he or she is authorized to conduct, including, but not limited to, investigations authorized under Section 11180 of the Government Code.

94342. (a) The council shall establish and maintain a Student Tuition Recovery Fund, with a degree-granting postsecondary educational institution account and a vocational educational institution account, for the purpose of relieving or mitigating pecuniary losses suffered by any California student of an approved institution who meets either of the following conditions:

(1) The student was enrolled in an institution prior to the institution's closure and prepaid tuition and suffered loss as a result of either the closure of the institution, the institution's breach or anticipatory breach of the agreement for the course of instruction, or a decline in the quality of the value of the course of instruction within the 30-day period before the institution's closure or, if the decline began before that period, the period of decline determined by the council.

(2) The student obtained a judgment against the institution for any violation of this chapter and the student certifies that the judgment cannot be collected after diligent collection efforts. The liability of the Student Tuition Recovery Fund to a student shall not exceed the amount of the student's tuition and the cost of materials related to the course of instruction.

(b) Payments from the fund to any student shall be made from the appropriate account with the fund, as determined by the type of institution into which the student has paid his or her fees, shall be at the discretion of the council, and shall be subject to any regulations and conditions as the council shall prescribe.

(c) The council shall attempt to obtain the names and addresses of persons who were students of an institution within 30 days prior to its closure, and shall notify these students of their rights under the Student Tuition Recovery Fund and the requirements for application for payment.

(d) (1) Students entitled to payment as provided in paragraph (1) of subdivision (a) shall file with the council a verified application indicating each of the following:(A) The student's name, address, telephone number, and social security number.

(B) If any portion of the tuition was paid from the proceeds of the loan, the name of the lender and any state or federal agency that guaranteed or reinsured the loan.

(C) The amount of the prepaid tuition.

(D) The date the student ceased attending the institution.

(E) A description of the reasons the student ceased attending the institution.

(F) If the student ceased attending because of a breach or anticipatory breach or because of the decline in the quality or value of the course of instruction as described in subparagraph (C) of paragraph (1) of subdivision (a), a statement describing in detail the nature of the economic loss incurred. The application shall be filed within one year of the council's service on the student of the notice described in subdivision (b) or, if no notice is served, within four years of the institution's closure.

(2) Students entitled to payment as provided in paragraph (2) of subdivision (a) shall file with the council a verified application indicating the student's name, address, telephone number, and social security number, the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment.

The application shall be filed within two years after the date upon which the judgment became final.

(3) The council may require additional information designed to facilitate payment to entitled students. The council shall relieve a student from the requirement to provide all of the information required by this subdivision if the council has the information or the information is not reasonably necessary for the resolution of a student's claim.

(e) Within 30 days of the council's receipt of an application for payment, the council shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The council may, for good cause, extend the time period for up to 90 days to investigate the accuracy of the claim.

(f) If the council pays the claim, the amount of the payment shall be the total amount of the student's economic loss, notwithstanding the amount of the refund to which the student would have been entitled after a voluntary withdrawal, although the amount of the payment shall in no event exceed the amount of the student's tuition and the cost of materials related to the course of instruction. Upon payment of the claim, the council shall be subrogated to all of the student's rights against the institution to the extent of the amount of the payment.

(g) If the council denies the claim, the council shall notify the student of the denial and of the student's right to request a hearing within 60 days or any longer period permitted by the council. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the council's decision shall be final. If a hearing is requested, the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student have the option for a teach-out at another institution approved by the council. The council shall seek to promote teach-out opportunities wherever possible, with the student to be informed by the council that he or she has the option of either a payment from the fund or a teach-out.

94343. The council shall assess each institution which collects any moneys in advance of rendering services an amount equal to one-tenth of 1 percent of the total course cost for each student newly enrolled. The assessment per student shall not be less than one dollar ($1), and not more than four dollars ($4). In addition, for each student who prepays an institution an amount in excess of four thousand dollars ($4,000), the council shall assess the institution one-half of 1 percent of the prepaid amount which exceeds four thousand dollars ($4,000). The council shall levy additional reasonable assessments only if they are required to ensure that sufficient funds are available to satisfy the anticipated costs of paying student claims pursuant to Section 94342. The assessments shall be paid into the State Treasury and credited to the appropriate account in the Student Tuition Recovery Fund, and the deposits shall be allocated, except as otherwise provided for in this chapter, solely for the payment of valid claims to students. Unless additional reasonable assessments are required, no assessments shall be levied during any fiscal year if, as of June 30 of the prior fiscal year, the balance in either account of the fund exceeds one million dollars ($1,000,000). However, regardless of the balance in the fund, assessments shall be made on any newly approved institution. Notwithstanding Section 13340 of the Government Code, the moneys so deposited in the Student Tuition Recovery Fund are continuously appropriated to the council for the purpose of paying claims to students pursuant to Section 94342.

Not more than one hundred thousand dollars ($100,000) per fiscal year shall be used for the administration of the tuition recovery program authorized by Section 94342 and this section. The interest earned on money in the fund shall be credited to the fund. Institutions which meet the student tuition indemnification requirements of a California state agency, or which demonstrate to the council that an acceptable alternative method of protecting their students against loss of prepaid tuition has been established, shall be exempted from this section.

In the event of a closure by any approved institution under this chapter, any assessments which have been made against those institutions, but have not been paid into the State Treasury, shall be recovered, or any payments from the Student Tuition Recovery Fund made to students on behalf of any institution may be recovered from that institution, by appropriate action taken by the council. The moneys so deposited in the Student Tuition Recovery Fund shall be exempt from execution and shall not be the subject of litigation or liability on the part of creditors of those institutions or students.

94343.2. (a) Any institution which willfully violates Section 94343 shall be subject to all of the following:

(1) The institution shall lose all rights to enforce the terms of any contract or agreement arising from the transaction in which the violation occurred.

(2) The institution shall refund to the student any fees which it has collected from that student.

(b) An institutions willful violation of the provisions of Section 94343 may be grounds for the revocation of that institution's approval to operate in this state.

94343.5. Students enrolling in institutions which come under Sections 94342 and 94343, shall disclose in writing, if applicable, the source of any and all guaranteed or insured loans granted for the purposes of paying tuition to that institution. In the event of a closure of any institution, the council shall provide any lending institution which is the source of any guaranteed or insured student loan with the names of students maintaining loans with that lending institution.

94344. (a) The governing board or other governing authority of any California postsecondary or vocational educational institution shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified, in writing, at the student's or former student's last known address, that he or she is in default on a loan or loans under either of the following loan programs:

(1) The Stafford Student Loan program.

(2) The Supplemental Loans for Students program.

"Default," as used in this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the institution, or the Student Aid Commission and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The adopted regulations shall not include the withholding of registration privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Student Aid Commission shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, or those acting under the control of the guarantors.

94345. Prior to September 1, 1995, the California Postsecondary Education Commission shall review and evaluate all of the following, and shall report to the Legislature on the results of this review and evaluation:

(a) The implementation of this chapter by the Council for Private Postsecondary and Vocational Education.

(b) The effectiveness of Sections 94310 and 94311 in protecting the integrity of degrees and diplomas issued by private educational institutions.

(c) The appropriateness of policies and actions by the council to delegate the responsibility for institutional regulation and oversight to a state board in the Department of Consumer Affairs, the Federal Aviation Administration, the state agency responsible for administering Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code, or the California Committee of Bar Examiners.

(d) The appropriateness of statutory provisions exempting colleges and universities accredited by the Western Association of Schools and Colleges from the approval provisions of this chapter, and the effectiveness of the Western Association of Schools and Colleges in responding to complaints pursuant to subdivision (d) of Section 94332.

(e) The effectiveness of this chapter in protecting students from misrepresentation and unfair practices and promoting the financial integrity of institutions operating in California.

(f) The desirability of revising existing statutes for the state funded student financial assistance programs to allow for participation by students choosing to attend any of the institutions approved under Section 94310.

The commission shall present any recommendations for revising this chapter, as it deems appropriate.

Article 6. Termination

94350. This chapter shall become inoperative on June 30, 1996, and as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 3 of this act shall become operative on January 1, 1991, except that Section 94304 of the Education Code shall be repealed on July 1, 1990.

SEC. 6. Section 4 of this act shall become operative on January 1, 1991, except that Article 1.5 (commencing with Section 94304) of Chapter 3 of Part 59 of the Education Code shall become operative on July 1, 1990.

SEC. 7. The California Postsecondary Education Commission shall convene an advisory committee comprised of the Superintendent of Public Instruction, the Department of Finance, and the Office of the Legislative Analyst, to prepare a report to be submitted to the Governor and the Legislature by October 1, 1990, regarding the budgetary requirements of the Council for Private Postsecondary and Vocational Education. The report shall include each of the following:

(a) An estimate of the revenues to be derived from the collection of approval fees from postsecondary or vocational educational institutions pursuant to Chapter 3 (commencing with Section 94300) of Part 59 of the Education Code, as added by Section 3 of this act, and from federal funds, and whether these revenues are sufficient to support the operations of the council and the approval process for these institutions.

(b) An estimate of the amount of funds required from the General Fund, if any, if the revenues described in subdivision (a) are deemed to be inadequate to support the operations of the council and the state approval process.

SEC. 8. Section 94311.2 of the Education Code, as added by Section 4 of this act, shall not become operative if Assembly Bill 1402 of the 1989-90 Regular Session is chaptered and becomes effective on or before January 1, 1990.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

ANNOUNCEMENT

The California Postsecondary Education Commission

solicits public comments on the

DRAFT REGULATIONS

to Implement

The Private Postsecondary and Vocational Education Reform Act of 1989 (SB 190) and

The Maxine Waters School Reform and Student Protection Act of 1989 (AB 1402)

Public hearings will be held on

Date: Thursday, June 21, 1990	Date: Tuesday, June 26, 1990
Time: 9:00 a.m.- 4:00 p.m.	Time: 9:00 a.m. - 4:00 p.m.
Place: State Building Auditorium 245 West Broadway Long Beach	Place: Dept. of Consumer Affairs 1020 N Street, Rm. 102 Sacramento

The California Postsecondary Education Commission will hold two public sessions to provide the public the opportunity to comment on draft regulations being prepared to implement Senate Bill 190 (1989, Morgan) and Assembly Bill 1402 (1989, Waters).

The Private Postsecondary and Vocational Education Reform Act creates a new Council for Private Postsecondary and Vocational Education for approving private colleges, universities and vocational schools to operate in California. On January 1, 1991 this Council will assume the responsibilities of approving private postsecondary institutions under this Act. In preparation for that Council, the California Postsecondary Education Commission has been directed by the Legislature (Assembly Bill 1993: 1989, Farr) "to prepare a preliminary draft of proposed regulations to implement the standards, procedures, and criteria prescribed in" the Education Code.

To be assured of an opportunity to present oral comments, presenters should contact the Commission by telephone or letter by 5:00 p.m., Tuesday, June 19 and provide the name and institutional affiliation of the individual wishing to speak. Written comments containing proposed revisions will be accepted through June 26.

For a copy of the draft regulations and a place on the agenda, contact:

Anna Barajas
California Postsecondary Education Commission
1020 12th Street, 3rd floor
Sacramento, California
(916) 324-3885

Testimony of Presenters at Long Beach Hearing on June 21, 1990

Introduction, William Haldeman

I am a staff member of the California Postsecondary Education Commission. That is CPEC, the State agency that's sponsoring this public hearing. I'll be presiding today.

This is the time and place set by CPEC for a public hearing on proposed regulatory requirements for private, postsecondary vocational institutions seeking to operate in California. The Commission's staff with me are Dale Heckman, on my left here, Anita Scuri, our Legal Counsel, and Mike Sigsbee, on my far right.

For the record, today's date is June 21, 1990, and this hearing is beginning at approximately 9:06 at the State Building in Long Beach. We ask that all people attending the hearing sign the roster at the entrance to the auditorium. If you have not done so as you came in, you can do that at your leisure some time this morning.

If you wish to speak, and your name is not already on the list of presenters that we have on the table out there, please complete a form that we've developed for advising us of your wish and hand it to Mike Sigsbee, who will be back at the roster from time to time.

The purpose of this hearing is to receive oral and written testimony concerning the regulatory proposals described in our notice. For your information, the regulations the new Council will finally adopt will need to comply with six legal review standards, and I'm going to read these to you briefly. You may wish to make note of them, but I think you will hear them from time to time in the process of the hearings that are conducted on these regulations.

The first standard is *necessity*. Has the Council demonstrated for the record substantial evidence of the need for each part of these regulations? Necessity.

The second standard is *authority*. Has the Legislature delegated to the Council the power to adopt these regulations? Does the Council, in the Statute, have the authority to promulgate these particular regulations?

Consistency. Do these regulations conflict with other regulations or statutes?

Clarity. Can the regulation easily be understood by those directly affected by it? A very important standard.

Non-duplication. Do these regulations duplicate any other regulations or statutes? They are not to do so.

Reference. Which statutes do the regulations implement, interpret or make specific? Is there a source for each regulation?

It will be helpful to us, and will strengthen your argument, if during your testimony it's directed to these six standards as they pertain to the draft regulations we are concerned with today.

Before I ask for your testimony, I'd like to describe briefly the procedure that will be followed. The entire proceeding will be tape recorded. The panel members will not engage in any discussion of the issues raised by your testimony, nor will we cross-examine any of the presenters. We may, occasionally, however, ask a presenter to clarify a point, if it would help us better understand your testimony. All recommendations and objections will be considered in the subsequent revision of these draft regulations.

I will call those persons who wish to testify beginning with those who notified us prior to today about their wish to speak. Their name is on the list that you picked up at the beginning of the meeting. It is our intention to take testimony first from those on the printed list of presenters in the order in which they appear. Following the last person on that list, we will hear from those that submit their request today on the form earlier referred to. These forms are in the back of the room. To enable us and the audience to hear you, and to insure that all testimony is entered into the record, I would ask that you speak into the microphone that is here before you. Please identify yourself by name and institution.

Oral testimony will be limited to 10 minutes per person. Understand, you are not required to take 10 minutes. Please, in your oral testimony, identify the specific regulations to which your comments are addressed. Each of the specific regulations, to the extent that you can. That will be helpful to us in making the revisions that we will be doing. Please try not to repeat testimony that has already been given.

Written testimony may be summarized orally, but it should not be read. We have been provided with a copy of all written comments received by the Commission through June 19. You may wish to note that any additional written comments on these draft regulations that you wish to submit during the next revision cycle will be accepted through June 26. In that regard, understand, it is not our intention to stop the process. There is yet another couple of cycles, as some of the information that you have received indicates. But, for this current cycle, the revisions that we receive through June 26 will be those that we'll be able to consider in the amendments of the draft that you have before you.

So, with those opening comments, let us proceed. We will break for lunch at approximately a quarter till 12. We don't plan any other breaks. That was the question we were talking about up here. Each is on his own in that regard. So, let's begin with those that are here to testify, and the first is Barbara Jean from World University.

Barbara Jean, World University

First of all, we'd like to thank you, of course, for the opportunity to be here, and we know everyone else here feels the same way. I am not actually the person who is intended to speak for World University, the technical advisor and professor of the school is going to be here later, and I've written his name in so he'll be last.

I'd like to just, by means of this opportunity, introduce World University as a degree-granting institution which is approved by the State Department of Education, and not yet accredited in the Western Association. We're a group who actually is taking a bit of a different walk in the path of academia. We have a great intention of making sure that our students are not only filled mentally, but that they're also filled spiritually. We have a understanding of society today that is the by-product of the education we have had up to this point, and we sincerely feel that the opportunity is now before us, in a world that is opening up and letting down its walls, that this is an opportunity for us as an educational body, as a place that leads, a country that leads, with educational standards and so forth. We sincerely feel that our goals are not only well founded, but could and should be an intention of other schools as well.

First and foremost, we want our students to graduate with global responsibility, responsibility to one another. We also want to be sure that our students are not only mentally satisfied but that they are emotionally satisfied with their experience in school so that they are a contribution to society. The concern that we have is that people are educated to go out and meet their own needs. There is a greater need, and that is to meet the needs of society. Thank you for this time.

Charles Dalton, California Pacific University

My name is Charles Dalton. I'm with California Pacific University in San Diego. We are a degree-granting correspondence school, gloriously unaccredited.

My purpose in being here this morning is to thank Dr. Haldeman and his staff for the work that they have done in preparing these proposed regulations for us in such a lucid fashion, and, number two, acknowledging as a preamble that there are many areas of disagreement. I'm going to confine my comments to just a handful of items that cause me some concern.

Article 202, on Governance and Administration, is a requirement, or proposed requirement, that degree-granting schools have a minimum of five members on their Board, one of whom must be a public member, and that they have an advisory body comprised of five members. That's a rather simple thing to accomplish, in a way. It isn't anything that is difficult to do. Anybody can do it, and actually, it's quite meaningless. To put that type of a regulation in invites an institution to just select somebody arbitrarily who's going to go along with them. I, personally, see no point in that, and any school that (1) does not participate in any federal funding of any kind: such as student loans, grants; state loans, grants; VA funding; or that sort of thing. It would seem to me that it is an intrusion upon the corporation laws of the State of California. That's my number one objection.

Number two: Article 204, Instruction, relates also to Article 217, Degrees Offered, and that relates to the first part of the proposed regulations which are definitions, in which it is spelled out the various kinds and modes of instruction that are proposed to be recognized. Essentially, what is discussed there is delivery instructional systems. Correspondence instruction is described in that Article as "an exchange of written lessons between the student and the institution either via correspondence or electronic beams." This is quite true. That is exactly what it is.

But, in many correspondence schools, and ours is no exception, there are other modes of instruction that implement or supplement the primary method, which is correspondence, and that's particularly true today in an era when we have high technology. All of our students have access to us by fax, by modem, by computer. Most of our instruction has direct computer applications. There is constant contact between the institution and the students, even though the primary mode -- and under this definition -- we would be classified strictly as a correspondence institution. Now, that relates to the main part that I wanted to discuss.

There is a proposed regulation that correspondence schools not be allowed to offer the Doctoral degree. Generally, no one could fault that. That certainly is a legitimate request. However, schools accredited -- or one school particularly -- by the Western Association of Schools and Colleges has a predominant mode of instruction which is correspondence and supervised internship. That is where there is a requirement of one to two weeks per year on campus for research methodology and so forth. I believe that some distinction should be made there, and in that connection, there should be a specification that if this regulation is adopted, forbidding Doctoral programs by correspondence, that those students who are currently in the pipeline should certainly be allowed to finish.

Personally, I think that that regulation needs to be clarified substantially by the Council, or in the proposed regulation, so that it can be determined if the mode of instruction is predominantly correspondence, or is it a combination of correspondence along with the off-campus, structured type of learning?

Number three: Article 207, Tuition. It specifies tuition contracted for, but not received, be classified as a liability. That needs some further elucidation. If you're going to classify it as a liability, then you must also classify it as an asset. Which means that you would have to show it in your current assets as an accounts receivable -- I'm talking about the Gap Standards -- and then the off-setting entry would be in the capital accounts, deferred income. It would certainly not be a liability in that sense. One entry would offset the other one.

The other alternative is to drop them out altogether and say you're strictly on the cash basis and report nothing until it's received. That isn't particularly good for an institution. Before I came here, I checked with our bankers, the largest bank in San Diego County, and I asked them -- we have never done it -- but I said, "Here are our accounts receivable. Here are aging reports going back for 10 years. Could we borrow money on these? Would you classify these as an asset?" The answer was an unqualified yes, up to 90 percent. So, you cannot call those things, under those circumstances, meaningless or worthless. It depends on the substance that is behind them.

Number four: Article 210, Tuition, Fees and Refund Schedule. The proposed regulations for a correspondence school are much harsher than the regulations required of accredited correspondence schools by the National Home Study Council, and in that connection, the refund schedule classified, rather that the National Home Study Council demands of their schools is a direct pro-rata basis, up to 50 percent, less $100.00 for registration fee. Over 50 percent, no refund.

It's interesting how that came about. That is the result of a consent decree between the National Home Study Council and the Federal Trade Commission in a case that lasted from the early 1970s and was not resolved until 1978, when the consent decree was signed. The purpose, and I must say that in that consent decree degree-granting schools were expressly exempted. Now, what the FTC was after, and I think that that is what the Commission is after, and I think every right-thinking person is after that, is to be sure that there is an ability to benefit from the instruction offered. The problem that NHSC was faced with in those days was primarily caused by two schools. It was La Salle Extension University, which was owned by Mike Nolan, which is now closed, and it was ICS.

It was occasioned by their enrolling thousands of students in very short courses for $199.00, $299.00, and so on like that. Interior Decorating, all kinds of little things. The people that appealed to, because the tuition break was $199.00 at $6.00 or $7.00 a month, and they signed them up on an airplane contract, and what happened is many young housewives -- 17, 18 years old -- throughout the country were buying those courses. They were not completing it. They were probably purloining money from the grocery money to pay that $6.00 or $7.00 a month. It went on for two or three years. They did nothing. They asked for refunds back, and they were set on a tight schedule. If they didn't pay, they were sued.

That is the genesis of that particular rule, and I do believe that we need further clarification in these regulations to account for that. Apparently, somebody just went back and picked up a portion of the NHSC refund schedule and left the rest, just crossed it out.

I think that just about covers what I had to say, and I think my time is up. Thank you.

(Voice from audience): One question .... You made it on your opening comment. You said that you didn't want anyone to repeat any of the other questions. I think that would be a little bit tricky. Because I think you should know what everyone is concerned about, and I think if you hear it 20 times, maybe the message will get across, rather than just once.

William Haldeman: It would be helpful, just for the sake of time, to indicate that you agree with these other speakers, but you don't have to repeat verbatim all of their arguments. You may emphasize your agreement, but we don't need the whole shot again.

Alvin Ross, Ryokan College

Good morning, my name is Alvin Ross. I'm the President of Ryokan College in Los Angeles, which is a degree-granting institute focusing on human behavior and psychology. Our graduates receive M.A.s and Psy.D.s, and are eligible for licensing by the BDSE and the Board of Psychology.

I thank you for the opportunity to speak with you. I sincerely hope that my written report, which I haven't handed in yet, but I can give you this morning, will be read and reviewed and analyzed by the staff. I don't intend to read it all, and I'm going to gloss over three particular areas that I think need some refining, and you can read about them, you've heard about them, you're going to hear about it again. But, I'd like to hit upon two particular areas.

And then, looking at your six items for preparation of regulations. Certainly, there's a need. If we had regulations over the past few years, we wouldn't be in the conundrum and the predicament we're in now. I have no question about authority. My only question with those six is consistency. Consistent with who? (sic) Consistent with WASC? Consistent with the public institutions? I would like to remind the staff that SB 190 and SB 194, which probably will get through the Legislature, both have a clause which says, "It is the intent of the Legislature that the minimum standards for approval for degree-granting institutions established by the Council shall not exceed the accreditation standards adopted by the Western Association of Schools and Colleges," and, in my opinion, many of the proposed regulations do exceed what WASC has presented.

I hope that you'll pay attention to definitions when you look in Section 100. An omission there has been part-time faculty. You talk about full-time faculty. You talk about adjunct faculty. But, you don't mention permanent, part-time faculty. And most of us operate with permanent, part time faculty.

202, Governance, I'm not going to talk about the Board of Directors, but I would like to talk about the faculty involvement in governance. Since at my institution all of the faculty are working professionals, clinicians, who come in and teach psychotherapeutic techniques one evening a week, or one Saturday or Sunday a week, or whatever it may be, and since we believe that our adult learners can best learn from professionals rather than from professional teachers, it would be rather difficult to get these part time professionals to get fully involved in all the aspects of governance that are detailed in Section 202.

As far as the faculty itself, in Section 205, I'm not even going to talk about the proposed ratio of 25:1 FTE students, because we have a better ratio than that. My concern is with the Council imposing any set, inflexible formula on the schools. I'm also concerned with the fact that we would be precluded from hiring some of the great minds of this society, who do not have any degrees. An Erik Ericson couldn't teach at my school if this regulation went through. Bucky Fuller could not teach at my school, not at the Doctoral level, if this regulation went through. If I were a school of music, I could not hire Yehudi Menuin to teach at my school, based on this regulation. I think that has to be reviewed.

William Haldeman: Excuse me, Al, could you point to the passage in the regulation where that ...

In 205, I don't have it up here. But, in 205, it specifically states that 50 percent or more of those in a doctoral program must have received a doctorate from an accredited institution. I'm not arguing about the 50 percent. I'm just arguing about the inflexibility of a formula. You could say "a portion of," or whatever.

I'm going to skip over to 215, to the Library, and gloss over that, and then go to where I really want to get involved, the refund policy.

My institution has a small library. One that WASC would not consider a major library. We consider it a sufficient core library for our students. But, we're less than five miles away from UCLA. We're less than five miles away from Loyola-Marymount. We're about nine miles away from USC. And our students have library cards at those institutions. As a matter of fact, we hold field trips to the UCLA library system quarterly, and we take our students there, have them sign up for UCLA cards (which cost them $24.00 a year), we reimburse the students for the purchase of those cards, we know they're using that facility.

According to these regulations, if my library were considered not an effective library, and I was to rely on what 215 says, I would have to hire a professional, full-time librarian to be an information specialist to the students and the faculty. If I'm not going to have a library, why would I need a professional, full-time librarian? That's another consistency factor.

William Haldeman: Excuse me, it doesn't say full-time, regular service.

Well, I'll grant you it may not say full time. But, why do I need to hire a professional librarian to be an information specialist?

Now, I'd like to go to 210, and the refund policy, and focus on that. I think this might be a perfectly acceptable refund policy if terms were defined a little better, and if you were dealing with people who enroll in a school who pay all of their money up front, and, therefore, should be entitled to a 75 percent refund or a 60 percent refund over a period of time.

In my particular school, this refund formula that you've laid out in Section 210 would financially cripple us. We don't have terms. We don't have quarters, or semesters, or trimesters. We have programs. Our students enroll for a 17-month MA program, or a 24-month PsyD program. They sign a long-term contract paying incrementally over the 17 months or the 24 months.

These are classroom programs. They're like old residential programs. The heaviest financial burden that we incur is during the first few months of any student's residency. You have the admissions processing, and the transcript evaluation, and the individual counseling, and the concerns and anxieties of students returning to school that have to be seen frequently. And the negotiation on tuition payments, the establishment of student records and files, and all of that. And that means the heaviest financial burden on the school is in the first few months of residency for the student. After about the third or fourth month, things seem to simmer down and they flow. Your teaching costs are the same from month after month after month.

To illustrate the point of how this would impact, I've included a chart on my written testimony. The chart very clearly shows where we would be at any one of these points laid out in your formula. If a student enrolled, and dropped out after 10 percent of our term, which is a 17-month term, by definition, we would have to refund to that person, of what they have already paid in, enough money so that we'd have a negative balance and no allowance at all for administrative costs. I won't give you the dollars and cents here. You can read this at your leisure.

At point B, where the student would be entitled to a 75 percent refund because they had 25 percent of the class time over the 17, we would also have a negative balance. We'd actually, after we'd refunded what the 75 percent of what the student paid in, we'd have a total of $ 275.00 to cover all of the administrative expenses of a five-month period. Now, I think a little simple arithmetic tells you that that doesn't share the burden of utilities, rent, insurance, and what-not. And it goes on and on like that.

I think what you have to recognize is the diversity of operations that exists among the degree-granting schools in the state. I don't think any set formula is going to work. In 12 years of operation, we at Ryokan have never had one complaint about tuition or refund. We've never had one problem. We've followed a fair and equitable formula that at each approval meeting, every three years or whenever we were reapproved, was okayed by the committee or the team that came there. And, I think that the schools ought to be given the flexibility to operate a refund schedule within the parameters of their own operation.

I hope you'll read the rest of what I had to say. I appreciate ...

William Haldeman: We certainly will.

Thank you.

Ted Dalton, Newport University

Good Morning. My name is Ted Dalton. I appear here under two hats: California Association of State Approved Colleges and Universities, otherwise known as CASACU; and I'm President of Newport University. I assume that under the guidelines . . . I will be allowed 20 minutes total.

William Haldeman: Wrong. We have 10 minutes per head; not 10 minutes per hat.

Okay. I might mention that CASACU has approximately 60 members, representing the approved institutions, degree-granting institutions in California. It will come as no surprise to the authors of these proposed regulations written to implement the Postsecondary Vocational Education Act, the reform act of 1989 that the basic and general terms are not acceptable.

If it is the Legislature's intent to eliminate private, post-secondary education in California, then these regulations, along with the attendant law, SB 190, will provide the means whereby this can be accomplished. However, we believe that most of the Legislature at least recognizes the importance of the private education sector, and that the intent is to insure the flourishing of this sector, while at the same time assuring protection to the public against the so-called "diploma mills of California". Great legislative concerns were generated by characterizing California as the "diploma mill capitol of the world." I have yet to hear any of the staff of the California Postsecondary Education Commission, or those who successfully exempted themselves from the law, publicly name a California diploma mill. Nor, for that matter, did the . . . diploma mills, like Stewart, that was placed in the hands of every legislator, name and operate a California diploma mill.

These regulations fail to recognize the diversity found in this private education sector. This diversity is not only evident in the variety and/or combinations of educational delivery systems, but in organization and administration. Those who have followed the studies and debates of the Brookings Institute will have seen that entrepreneurism in education has been demonstrated to be the most effective means of providing education. The proposed regulations are not only punitive, but severely restrict the ability of a private education sector to meet the ever-changing educational needs of our society.

Last week, I received a call from a staff member of the Assembly Education Subcommittee, who made the statement, "The prior education act is bankrupt. It failed to provide necessary oversight in the private sector." We all know that this is untrue, and that it was uneven application of the laws that existed, and not the law, that failed. Regulations need to be devised and implemented that are concerned with curriculum that meets the challenge and needs of industry and professions, not a carbon copy of that offered through traditional schools handicapped by a large bureaucracy and self-serving accrediting associations. The regulations that are concerned with the quality of faculty, rather than whether they are full time, adjunct, or part time, that learning outcomes are demonstrated so that levels of achievement can be determined without concern whether the learning activities took place over months, days, or over hours. In other words, where both faculty and student achievement can be determined.

These proposed regulations reflect that those without practical experience out in the trenches of proprietary education; those who do not have to concern themselves with profitability in order to survive; and those who are more concerned with faculty/administrative needs and not student needs would create. Select staff of CPEC, WASC, and others have achieved their goal of moving private postsecondary education away from the Department of Education and for obtaining exemption from California law for the accrediting association for this region. Now is not the time to raise the gauntlet with restrictive and punitive regulations, but to work reasonably with knowledgeable and sincere individuals in the private sector. In this way, regulations that meet the needs of serious institutions and the public concerns can be properly addressed. I thank you for that part of it.

Now, Newport University, it's been eloquently, I think, stated elsewhere by prior speakers -- Dr. Dalton, no relation, by the way, and Dr. Ross -- of some of the major concerns. I would like to emphasize several. One is the question of governance and administration, Section 202. It requires that not less than 20 percent of the membership of the Board . . . for profit institutions be represented by the public. I think this is an intrusion of a proprietary corporation upon its own governance.

I'd like to mention for a moment Section 205 -- let's back up -- 204 under instruction -- distance instruction. There seems to run throughout the regulations a rather demeaning opinion of correspondence or distance learning as a mode of delivery or mode of education. Any people that are truly in the education sector will know that the area of correspondence, or distance learning, or tutorial, or whatever you wish to call it, is a viable, recognized means of educational delivery. In other words, from this with considering the main points that you are able to judge . . . . So, the means of delivery seems to me to be rather in the overall scheme of the educational system ;seems to be rather moot owing to the point that you can, in fact, determine learning outcomes.

Under Section 205, the faculty and their qualifications, Dr. Ross mentioned that you couldn't have a . . . . I'd like . . . . These require that the faculty have their highest degree in an academic discipline come from an accredited institution as a primary evidence of their appropriate training, etc. I would suggest to you that there is more than accreditation. Accreditation is a rather peculiar designation to use that applies to the U.S. In foreign countries, this is relatively meaningless. There are major universities, which are not accredited as is understood with this group, that, of course, have highly qualified faculty that could be and can be available to the various institutions in this state.

The second part of this section has to do with the field of instruction of the qualification of the faculty who are contributing to the students' learning at the doctoral level. Here, there are requirements that not only is their doctoral degree required, but you go beyond that. You go beyond that they must have post-doctoral education. That, again, that these faculty are recognized by the federal Department of Education through their accrediting association. They must have field experience or research experience well beyond their own dissertation. And they also must have current activity in the field of scholarship or profession. And this, to me, is a very restrictive approach to construction of faculty, where the terminal degree in education is, in fact, the doctoral degree.

William Haldeman: Let me interrupt you at this point. We said we're not going to explain, or get into things, but this is one of those places that I think is continually misunderstood. Let me just step through 205D to say one-half of the faculty, one-half of the faculty that supervise doctoral programs -- supervision is, perhaps, one of the terms that is getting us into problems here. Not dealing with those that instruct doctoral students, but those that are in charge of the doctoral students dissertation program. So that it is a very narrow requirement, and I think in that respect you are correct. But, one-half of the faculty who supervise the doctoral program of a student, according to these regulations, would be required to have that. And that's all I'm going to say. I don't want to . . . .

You see, it's inconsistent to me that you have -- that seems rather artificial. That you have one student here whose faculty advisor doesn't meet what you have here. In another case, you have two faculty advisors, you have another one who is advising a student with these qualifications. That's an inconsistency. What benefit does this, does it do for either student? I should think that the writers of these regulations should also look . . . , which is that the institution shall have written policy on academic freedom, and that academic freedom should be reflected in these regulations.

There's quite a bit said already about tuition fees and refund schedule, and I think it's enough to say that few, if any, approved institutions or degree-granting institutions in this state could survive under these proposed refund policies.

Under Section 217, Degrees Offered, this again, under paragraph, "Doctoral programs shall not be offered by correspondence . . . ." I don't know where, I don't know that I ever read this in SB 190, that it was a requirement. . . . , and I think we know that in educational circles, and certainly in traditional educational circles, there's an amount, a certain amount, of academic snobbery that exists. But, I see no educational justification for limitation of doctoral programs to . . . delivery systems. I'm sure those on this panel who have achieved their doctoral program, acquired most of it outside the classroom. Most of it through library research, and away from the structured setting. In fact, some of the graduates from major institutions that I know have no classroom appearances in terms of their doctoral program, working entirely with the faculty advisors.

There're a number of other things, but I think those are the key issues, and I thank this panel for allowing me to speak, perhaps somewhat heatedly at points, but as the day goes through, I'm sure it will come across to you that there's a lot of unhappy people in terms of what we really want to achieve in this state. And we don't want to provide a means whereby serious institutions, elevated institutions, would be prohibited from coming into being. I think if you look at these regulations in light of that, I would see no way for an institution, considering the . . . departments, etc., to be able to even start up this way.

Philip Forte, Pacific Western University

William Haldeman: Hal Doughty, am I pronouncing the name correctly? Hal, are you here?

Is this amplification working? You can hear in the back row all right? You cannot?

Audience: Not very well.

William Haldeman: I think it's on. I'll just try to speak . . . .

Audience: Try to speak louder.

William Haldeman: Okay, I'll speak up, then. I'm sorry. Hal Doughty, I believe, would be the way the name is pronounced. He is not here. Let's move on then to Philip Forte.

Philip Forte, Pacific Western University. With your instructions, I'll agree with all the previous speakers, so that I don't have to repeat . . . . I think you're going to hear more of the same today. I think it's going to be repeating exactly what the problems are with a number of items through here.

There are a few things that concern me. The regulations that are set forth here -- they have nothing to do with innovating any kind of innovative educational standards. As SB 194 states, that's page 5, line 24, item 3, "The standards and procedures utilized by the Council shall not unreasonably hinder educational institutions and competition," and your enclosure, CPEC's enclosure, number L, it's repeated again, on page 17, Item 3, page 3, paragraph G, "which standards shall not exceed the accreditation standards of WASC." You continually seem to do this through the regulations -- is exceeding the standards of WASC, and putting some very difficult burdens on these institutions, and there's nothing in your regulations to advance innovative education. Nothing at all.

Now, the thing that concerns me is that the standards and the regulations are selective and vague, and I think it influences the team that comes in to visit a school. I've been on some of these team visits. I've been on some of the team visits with you, and some of the team people have been into my institution. I think they're naturally biased. They can't help but be because that's the way they are living their lives. I think you have a lot of the natural biases there in the regulations, because they're not explicit. They're just vague, and it could be open to all kinds of interpretation.

But, getting to the items themselves, Article number 202, Option 1 and Option 2. They place an unfair burden on the small institutions to find either Board members or an Advisory Committee to sit without pay. Remember, we're not State institutions, and we're not funded by the taxpayers, nor are we funded by grants in many cases. We're degree-granting institutions, operating under private, postsecondary. We're not dealing with government money. We don't have government money to give away. So, it's very, very rare that you're going to find an outside committee that's gong to sit on these Boards of these institutions without pay, or any kind of involvement in the institution itself.

Number 205. Again, the regulation pertaining to faculty. That regulation doesn't even apply to many of the large, accredited institutions, especially, profit or non-profit State and private institutions. This is a very -- this is going to impose a hardship and, I think, is unfair again.

Number 207. There's not any business that I know of that cannot use their receivables, especially in the way of tuition receivables, as an asset. It's contrary to all public accounting that I know of, just contrary to all kinds of accounting procedures. When that tuition is on the books, it's an asset of the corporation. It's an asset of the school. That's the only vehicle they can use to borrow money from banks, and you're taking that away. It just doesn't seem right. It doesn't seem fair.

And, then, number 209, paragraph C. You have when the institution is closed. I don't know if you've thought it out at all, but if you start closing the institutions, and this law seems to grandfather a lot of the older ones, like myself, but if you come in with this team who decides that they don't like what they see, and they close the institution down, you have in your regulations that should the school close down they can't accept anymore tuition payments; they can't matriculate their students; and if you go to the student tuition recovery fund, gentlemen, you're going to tap it out in a period of 30 days. Because it's my belief, and I've been on these committees now for the last 14 years, that if these regulations are implemented, you're going to have 50 percent of your schools going bankrupt. I hope you have a big enough warehouse in Sacramento to get all the records of all the students that are going to be dumped on you. Because there's going to be a number of them.

There's no allowance in here for an orderly closure of the school: Nothing. You're coming in with a Gestapo, and . . . what are you going to say: "Okay, guys, you're closed down. You're not taking any more money. That's history." What are you going to do with those students? You're going to have them tap the Student Tuition Recovery Fund? There's a million dollars in it now, a million one, and I know you're going to increase it. But, that's not going to cover it for a lot of schools. You have nothing in here for an orderly closure of schools. There should be something in the regulations that says okay, fine, stop taking enrollments. You teach out your students, and you turn over your files to us in an orderly manner. Otherwise, you're going to have chaos on your hands.

I think, secondly, if you've taken into consideration in SB 190 and 194, there's no stipulation in the law itself that says no degrees, no doctorate degrees should be offered by correspondence schools. That's something that whoever drafted these regulations put together, and they suggested . . . . That should be eliminated completely. That should be just another degree, and be consistent with all the other degrees that are being offered.

Also, I think, if you go into the regulations of the new Council. The new Council is to be funded by the schools. If you lose half your schools, and I think you stipulated that there are 2,000 schools here, if you lose half your schools, where are you going to get your fees? Who's going to fund this Council? You have a provision for $125,000 in there, in addition to whatever you're going to have with the Council expense, to hire your new Chief, whoever's going to sit as Chief of this Council. He's going to take $95,000, and you're going to have initial expenses on that. Where's the money coming from if you're not tapping the General Fund? Are you going to go back to the Student Tuition Recovery Fund to pick up that money, as many of you suggested? I don't see that in any of the regulations.

So, I think that you should look at these regulations again, find out where the money is going to come from that is going to fund this Council, number one. And number two, where the money is going to come from if you start closing these schools down just like that because a team comes in and they don't like what they see according to these regulations. Now, I understand that these regulations -- and I may be incorrect in this -- but, I understand this set of regulations is the first runner through a set of regulations that's coming out of the Council. Is that correct?

William Haldeman: That's right.

Then, in the third step, it goes up to OAL, Office of Administrative Law, to be heard?

William Haldeman: When regulations are formally adopted, and the Council, not the Commission, not CPEC. Only the Council can adopt regulations. Once they are adopted, they do go to OAL for approval.

I really think that someone should look at the dollars and cents of this thing, because, it just doesn't seem to make any sense. I think most of these regulations are going to stick, and I think most of us here feel that way, and you're going to have a large problem on your hands with schools closing. So, you better set yourselves up for an orderly closure of these schools, and a lot of problems.

That's it. I put my two cents in. Thank you.

William Haldeman: Thank you, Phil.

George Hare, Southern California Bible College

William Haldeman: Now we have a team from Western Institute for Social Research, John Bilorusky -- is that right, John?-- Lee Francis. Is either one of these two individuals here? Very well, we'll go on, then, to the next name, W. D. Polich, from Irvine College of Business. Tom Neal? Dr. George Hare? Are you Dr. Hare.

Yes.

William Haldeman: Thank you.

George Hare of the Southern California Bible College, in San Diego. I'd hoped to receive some information in advance of the meeting so I could speak intelligently. Since I received none, -- I had my name put on the list, however, before -- since I received none, I was really not able to prepare any statement.

William Haldeman: Excuse me. I'm very sorry if we overlooked your request. When did you call us? Had you called in requesting this information?

No, I received no information about being able to call you. I received nothing.

William Haldeman: In any case, understand that you do have some time to submit additional written testimony if you wish to do so. So, we'll hear whatever you have to say today, and then, in addition, the materials that were sent out are those that are on the back table. After you've spent some time with those, we'll be happy to receive your written comments.

You skipped one person, by the way.

William Haldeman: I noticed that now, and we'll get Dr. Gamble after . . . .

I'll just make a general comment, if I may?

William Haldeman: That's fine.

And, before I make that comment, is it possible to ask a question or two? I wondering about . . . .

William Haldeman: Let's try it. I don't want to get pulled into a debate today, but we certainly . . . .

A lot of our schools have night school accreditation, such as the American Association of Bible Colleges. As I understand, you're either supposed to have approval by the State or regional accreditation?

William Haldeman: That's right.

What about a national body, such as the . . . ?

William Haldeman: According to SB 190, which is the law that we're operating by now, only WASC-accredited institutions are exempt from State licensure. So, national accreditation would still require an institution to be approved by the State, by the new Council.

So, even though the American Association of Bible Colleges recognizes . . . , they would not be recognized in the State of California?

William Haldeman: According to our statute, that is correct.

Do you believe that the colleges that are associated with our organization within the State of California are aware of this?

William Haldeman: That I don't know. That would be speculation on my part.

I cannot speak for them, but I really question if they are aware of this seriousness. Otherwise, I think some of them would be here at this time. I just -- I don't have evidence of that, just an observation.

William Haldeman: Understand that today we cannot address the statute directly because we don't have the power here to change that. We are dealing with the draft regulations that implement the statute that has been passed by our Legislature. It's not that we're trying to shift the burden there. It's simply that that's not our objective today.

See, I came with the understanding that we were going to have some input into the regulations.

William Haldeman: That's correct.

And I find out that the regulations have already been adopted.

William Haldeman: No.

No?

William Haldeman: What we're talking about today are draft regulations. After you get a copy, and you may have further questions about them, and further recommendations for revisions, we'll be happy to accept those recommendations. They are still draft. The law, however, has been passed, and the law does require that nationally accredited institutions in California also be subject to State licensure.

I see. Thank you for your time, and I'll pass since I was not prepared . . . .

William Haldeman: We'll be happy to receive your written testimony.

David Gamble, Linda Vista Baptist Bible College

William Haldeman: Dr. David Gamble. If you're here, I apologize for taking you out of order.

Apology accepted. Thank you, Dr. Haldeman.

I'd like to draw your attention to Section 205 for a moment, if we could: the faculty, including their qualifications. I represent Linda Vista Baptist Bible College and Seminary. It's been in existence for 44 years. It's always been in good standing with the State, and so forth. The school, and many schools like Linda Vista, of course, are a religiously oriented school primarily designed to prepare people for Christian ministry -- preaching, and Christian education, and missionary work, etc.

In that particular capacity, we have, more or less, what you might call a rather distinctive educational philosophy. A theological and philosophical conviction that's very unique; that we hold to very distinctly. There's a creed that we have. There's a confession of faith under which our school operates, and there's a very legitimate sense in which we kind of like to "grow our own people." In other words, the people that would be our faculty members, we're a very small school, but the people that comprise our faculty are people that, obviously, share our religious and philosophical persuasion, and many of the people that share our religious and philosophical persuasion are, obviously, people that have gone through our program itself.

I think there's a very distinct possibility that people that have gone through other school's programs -- be they accredited or not -- perhaps would not share our religious-philosophical convictions. As a religious school, we certainly do not want people that don't share our particular unique understanding of things, and I think we're protected under the First Amendment and other Church/State separation prerogatives in that regard. So, that leads me to, I guess, Section C here on page 17. It says, "The faculty shall have graduate academic training and degrees, and/or professional experience," etc., and that "at least half of the faculty shall have all of the following qualifications . . . .". The first one's a doctoral degree in the field of instruction from an institution accredited by an accrediting association recognized by the federal Department of Education or the California State Bar.

In a sense, that says 50 percent of the faculty, not 100 percent of the faculty, but that seems to address itself, perhaps, to your third point about consistency in my mind.

This is the document, obviously, that the State of California issues on full institutional approval, and right at the bottom, above Mr. Honig's name, it says that full institutional approval -- in other words, not Western Association accreditation -- "full institutional approval means (1) the institution has facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a professional, technological or educational objective, including but not limited to a degree." And then number (2) says, "the curriculum is consistent in quality with curricula offered by appropriate, established accredited institutions which are recognized by the United States Department of Education, or the Committee of Bar Examiners . . ...."

Unless I'm misreading that, what this whole institutional approval document says is that as far as the people that have signed this document are concerned, California approved schools are offering instruction that is "comparable and consistent in quality" with the Western Association and other accrediting bodies. So, if schools that are already approved by the State of California's Education Department, or are consistent in quality with the Western Association, I fail to see why 50 percent of the faculty has to have matriculated from a Western Association school.

William Haldeman: Excuse me, Dr. Gamble, let me just interrupt at this point, and then, don't lose your train of thought, because we want to deal with this point.

That particular provision was in the old law. It has been taken out of the new law, and, therefore, it's not reflected in the current regulations. It is, however, being debated at the present time in separate legislation that is on the floor of the Legislature. We have not put into our draft regulations provisions that are not in SB 190, for the most part. While we have been inconsistent on just a couple of points, which may come up, and we'll be willing to talk about them. But, for the most part, we have not addressed statute that has not been signed by the Governor. My point is that that particular reference about approval and comparability is still something that is being debated by the Legislature.

Good. Okay, I'm aware, obviously, as you mentioned earlier today, Dr. Haldeman, that there are provisions in SB 190 that you're simply implementing in these regulations, and SB 190 seems to afford a great deal of authority to the Western Association -- kind of a surprising amount to me.

William Haldeman: Not the Western Association, excuse me. They are exempt. That's a given, but the authority will rest in the new Council.

My point was -- there's something in there, for example, that says that if you get a complaint about a Western Association member school, you forward the complaint to Western Association.

William Haldeman: That's true. That is in the statute.

That rather surprised me. I'm sure it is, and we will pursue the statute and other vehicles. I'm simply expressing my shock and amazement about something like that.

Audience: You say it's being debated in the Legislature, but what's your position on this?

William Haldeman: We're not here to state a position on anything at this point. Our position is reflected, for the present, in the regulations that are on paper.

Audience: So, what we're reading here isn't accurate? Is that what you're saying?

William Haldeman: It's proposed. This is all proposed regulation. That's why we're here to talk about it.

Yeah, and I think my point is that the proposal is -- I think there should be allowances made in the proposal for a higher recognition of the quality of the graduates of California-approved institutions.

William Haldeman: We hear that.

Thank you very much, sir.

One other thought that I might share very quickly: on page 2 of the law itself, I guess, this is 94301, it mentions that part of the intent of this law is to encourage the quality of non-governmental accreditation, which is, obviously for example, Western Association. I would just like to throw out the idea that if we pursue this appropriately, the State might be open to other governing bodies, self-governing bodies that would be . . . . For example, in our case, perhaps the religious schools could try to construct a self-governing body like the State of Florida has allowed, the Florida Federation of Christian Colleges and Universities, where a number of schools govern themselves because of their distinctive religious perspective. Since the state may not have people that are religiously cognizant of all things, Florida has apparently allowed in addition to the -- what is that Southern Association down there or whatever the regional accrediting association of the State of Florida would be -- there's also the Florida Federation of Christian Colleges and Universities that functions as a non-governmental accrediting agency as well.

Just two other thoughts very quickly. I would read -- I think it was Dr. Ross who made several points that I thought were very excellent, and so I would simply agree with him on that. We were concerned about a lot of vagueness, and I won't reiterate those points. We would like to think that the laws would be very, very -- the regulations would be very, very specific. So, I'm not a lawyer, so perhaps it is simply my ignorance in reading, but as we went through these things, I certainly had a lot of questions about what does this mean. That's perhaps more a reflection of my ignorance than anything else.

William Haldeman: Not necessarily so. We will grant that we can probably be clearer on some of these things. But, we'll need to know which points those are. That can be done in written form as well as here.

Very good. Another thing that does not necessarily refer to anything in particular, but everything in general, we're a very small school. Very small schools can, obviously, sometimes do a very good job. I'd simply like to encourage you nice people here, as we're having an opportunity to discuss these things, every day that we're here -- this is a great day to be able to come here and hear everyone's opinions -- but while we're here, we're not doing what our school is supposed to be doing. We're not teaching our students. And every day that we spend filling out forms from the State, etc., we're not doing the things that we really should be doing. I'd like to think that whatever the final framework of these regulations is going to be that you'd really strive to make them as least burdensome as they can possibly be.

We're a small school. We don't have secretaries and all this, and all that. We don't have large numbers of people that we can farm this out. It basically falls upon our President's shoulders and a few people that can give him a little bit of assistance here and there. Every day that we're doing this, we're not doing something else. We'd really like to be about the task of education, and so we'd really like to respectfully submit that whatever final form these are going to take, have mercy on the little guy.

William Haldeman: Thank you, Dr. Gamble.

Richard Bideau, Sierra University

William Haldeman: Richard Beau, of Sierra University.

No, no, it's Bideau, B-i-d-e-a-u.

I'm going to limit my remarks to pointing out some of the sections and asking where the reference or the source of the regulation came from, rather than any comments. Section 205 . . . .

William Haldeman: Could you speak a little louder?

Is this on?

William Haldeman: Yes, the microphone is on. If you could just speak a little bit louder, that would help.

All right. This is for Section 205, dealing with the 50 percent of faculty need to be retained for 2 years. The other part of this had to do with the accredited degree. The faculty having to deal with 75 percent of the degree program. I guess my problem is that most of the approved schools are recognized by certain licensing boards. I guess the confusion here is that you're separating out accredited degrees from approved degrees.

William Haldeman: Dr. Bideau, could you tell us again which . . . ?

This is Section 205.

William Haldeman: And, what paragraph . . . ?

That's . . . C, dealing with accredited degrees 75 percent of the program, and page 12E, 50 percent of the faculty retained 2 years.

The next section is 217C, and that deals with the general education requirements. They need to be finished before the last semester.

William Haldeman: Could you tell us your problem with that?

Oh, the problem is that I'm just asking what is the reference and the source of regulations.

Why is that necessary to put in there?

William Haldeman: Because you question the source for it, the authority for it?

Yes, thank you.

William Haldeman: Very well, we have noted that.

The next item would be 217, on page 26, dealing with distance and correspondence. Sierra University, basically, dressed itself as having a tutorial method of instruction, and when you set up the three different kinds of modes of instruction, you mentioned innovative, but that wasn't four. So, I don't know where it falls in -- one, two, or three. Unless you want to make innovative number four.

Anyway, I'm curious on Section 217, how the BBSE got involved in correspondence or distance learning, when you have an equally important Board -- that's the Board of Psychology, which licenses psychologists in this State -- and they didn't have anything to say about this.

William Haldeman: I'm sorry, I didn't understand that question.

Sorry. In Section 217, there is a statement regarding that for State licensure that the Board of Behavioral Science Examiners would not recognize distance learning, or correspondence, as meeting the licensure requirements. I'm curious as to how they got involved in this, and we have an equally important Board dealing with the licensure of Psychologists, who didn't also say this.

William Haldeman: Are you suggesting that the Board of Psychology should be included?

No, I'm not. I'm just questioning how BBSE got involved.

William Haldeman: It's just there by illustration, and maybe inappropriately so.

Right, I just don't know how they got involved in this.

William Haldeman: That's subparagraph (d) that you're referring to there. Is that correct, Dr. Bideau?

That's correct.

On page 17, Section 2(n), I'm also curious as to why we need to put into the tuition schedule "they should publish the maximum percentage by which tuition or fees may be expected to increase for the following academic term or year". Again, I would ask the authority ...

William Haldeman: We're having a little problem with your references. Are you on the proposed regulations that were in the back of the room here?

No, this is the one I received earlier. I'll just mention the section: 210(1).

William Haldeman: 210(a)(1)? And the question again?

That's correct. "Institutions shall also publish the maximum percentage by which tuition or fees may be expected to increase for the following academic term or year." I assume that has to do with the five-year plan that it could go up as high as 10 percent. You want some sort of statement regarding that?

William Haldeman: Yes, that's a statement that will help the students plan on their costs.

I would also, on Section 212, I'm looking at section F, the source and authority for "no more than 25 percent of the units required for graduation degrees may be awarded for a final product." I find that excessive.

William Haldeman: You would recommend a lower percentage?

I just find it excessive. Considering that many universities, even accredited, may not require final products. When you take, let's say, 36 units a two year minimum, 25 percent would be . . . .

William Haldeman: I'm not certain I'm clear on your recommendation.

It's not a recommendation. I'm just wondering where the authority, the reference, for this recommendation is.

My last comment has to do with Section 202, regarding the Board membership, and I believe some comments have been expressed also about that. And, I would also want to know what the authority and reference source is for excluding the CEO from becoming a voting member of the Board?

I believe that's all. Thank you very much.

George Evans, Berean Bible College, South Campus

Thank you for the chance to share a little bit this morning. I'm also, disappointed that I didn't get information until I walked through the door this morning. I've been 19 years at Berean Bible College. In September, we start our twentieth year, and had I had the information, I feel I could speak more effectively. But, I just jotted down seven things on the address sheet of where this meeting is and picked up some information at the door.

Just by way of introduction, I'm concerned that some of these new laws would just kind of impinge on our religious freedom. We started as a Church, and part of our vision is to have a Bible College to express the vision of the Church, but, to cooperate with the laws of the land. We told the State f California what we're doing, and for 19 years, I've submitted to every law, every officer, every ordinance 100 percent. But, I'm getting a kind of crowded feeling. There are seven things I want to share with you here.

Number 202 talks about five outsiders that are not interested in the college to show real interest in the college. Very difficult. These five outsiders to be influenced, or informed, or whatnot, they're going to get it all with my viewpoint. That really is a kind of figurehead commission that you have. If they're not going to have any interest in the school, and yet, they're going to have an opinion on how to run the school. Very difficult. So, I object to 202 and the five outsiders.

Second thing I'd like to say is that you're out to protect students, but I feel like nobody's protecting the colleges, or that we are in the business of really working with students. We're with the students more than you are. We're with them daily. I motivate young people to serve the Lord. I've got students in the Orient, Europe, South America, Canada, and across America successfully building churches for the Lord. But, I'm about to go under if I face all the paperwork that I feel is coming down the tube here from Sacramento.

The third fact I'd like to talk about: it's just really hard to do all the things you're asking us to do. I feel kind of a choking feeling because we work a lot with volunteers. Like, you have a note here in 205E that you'd like to have educators who'd commit themselves to us for two years, and they'd be on our staff for two years. We don't run our school that way.

We run our school by getting local pastors to come and give us 12 weeks, or maybe three quarters which would be 36 weeks, or commit themselves to us for a whole year. Now, if I have to come back and tell all my people that help us in the school on a volunteer basis that I have to have two years out of them or they can't teach, I'm going to hurt myself. Even pastors that will volunteer take nothing but just a gas allowance, because they're anxious to see young people train for the ministry. They're anxious to see young people pass the churches and go to the mission field, and a lot of it is a kind of cooperative effort.

We have two campuses, one in Escondido with a little over 100 students, and we have our campus in San Diego that's been going for 19 years. We have a great cooperation between the ministry and the city to make our school work. Only 20 percent or so of the students come from my church. Eighty percent come from around the city. Now, if we've got to fulfill all these laws, here, I'm just going to choke to death.

Number four is a statement about 201. You're asking now for a statement of my faith, whatever we're doing. Nineteen years ago, I sent you a clear-cut statement. It's been on record all this time. Now, I feel like I'm beginning over again by this new law.

Number five. This isn't really a law I'm addressing, but I just think about my church and the State of California, and my desire to be a good citizen, and who's going to do all this work. I'm working hard now with a volunteer librarian. We've got a great library, and I'm working hard. We have volunteers that come in at night to work with records and work on computers, and volunteer teachers and preachers that come in. Now, all of a sudden, I've got to send off this volume of reports.

Like, you want to know what happens to all of my students. For six months, someone gets out of school and they don't do anything. They just go back to work at their local church. Maybe a year later, they're out in the field. Or maybe a year-and-a-half later, they pioneer a church. Or maybe in 18 months they're in Taiwan, working at a mission field. It's really hard to have an ongoing record of everybody who leaves your school. I just want to put that on the record. You're asking things that are hard to produce.

Item number six: In one of the little records I read here it says we should keep records for 50 years. I respect the school system of the State of California -- I matriculated here through the system, but, if I could go back to my grammar school and say, "a little over 50 years ago, I attended this school, could I have a transcript?" I think I'd have difficulty getting it from some of the established schools. And we're talking about a school with 2,000 membership that's well-established. I could go to my high school and say, "50 years ago I was here; could I have a transcript?" Might be able to get one; may not be able to get one. They'd say sure that was a long time ago. Yet, you would like me, a little 50-member Bible college, to come up with such records like that. These are hardships that you're imposing.

Then, another thing, I'll just quit with this. This is number seven. Seemingly, you're ignoring nationally-known accrediting associations. We have a nationally-known accrediting association, recognized in all 50 states, accrediting hundreds of Bible colleges like our own school. Now, the State comes along and says, "we're not going to recognize any of that." That's a hardship to me. That's kind of like almost a prejudice to me. That I don't like, and I just want to put it on the record. I think that if we've been recognized for 19, 20 years, I hate to see it all blown out by the enactment of a new law that's very cumbersome and very difficult to fulfill.

When you come to me and you tell me I have to do all these things -- and I've talked to other pastors that have successful Bible schools, 100, 200 members enrolled, been doing it for 20 years -- they faced these laws, and they say, "You know what? . . . I'm going to do, I'm going to go underground. I'm going to do the same thing I'm doing, but don't cooperate with the State of California anymore. Just tell them, 'This is religion. This is the church. This is the spread of the Gospel. This is what we've been called to do.' And just quit cooperating; just do it all in the name of the local church." Now, I hate to do that because we have had good success with the State. -- cooperative and very submissive, but, there is a feeling in my heart that I hate to express, but, I just feel like almost a retreat.

William Haldeman: Can you tell us about what programs you have? What degrees your school offers?

We have a two-year program, if someone wants to come along and just get a little bit of information. We specialize in preparing preachers, missionaries, and Christian educators. If they want to stay for four years, we give them a Bachelor of Theology. We've been operating 19 years and have had real good success, real good fruit. I know at times it sounds like I'm bragging, but I've got people who've been ministering all over the world, as a result of their time at Berean.

And I don't know what you're going to do. You've started the law; you're probably going to go through with it. But, somehow, it could be modified, minimized, softened, be easier to live with. This is my pitch.

General comments made
by William Haldeman

I feel constrained to say, at this point, that the format of the hearing, and the lack of response here at the table does not mean that we're not hearing you, or that we're unsympathetic with everything that you say. It so happens that we want to get as much said from your standpoint as possible, and if we stop and discuss some of these items -- which I would very much like to do -- then, you don't get to have your say. There will -- it's just a different kind of conversation than you're normally used to. The conversation will take place by our responding where we can with your recommendations, and you having another shot. (That's figuratively speaking!)

One of the reasons for putting out a memo that I put out some time ago, which I hope you've seen, that lists the three points in the process that includes not only the CPEC but the new Council was to assure you that we're not the whole ball game, and this Council has a real part of it to play too. And our response, our conversation in a sense will be the process that spins out over a period of the next six to twelve months. So, I just want to reassure you one more time that when we don't reply to everything that you ask, it's not that we don't want to, but that the process is something different than a normal conversation might be.

Let's go on with John Kenney. Is he here?

John Kenney, August Vollmer University

I'm John, go by Jack, Kenney, of August Vollmer University, and I thank you for the opportunity to appear again before you and the chance to work with you back in February on the review of the original draft. Apparently you didn't hear me.

I'm prepared to present my position orally and also in writing, and I just checked the written document again, and so I'm ready now to give you some real world facts of flexibility, which is absolutely necessary in dealing with faculty -- and I'll stick to that -- because these rules, these regulations certainly are far in excess of the behavioral pattern of WASC. I've been in this business, academically, for over four decades in university-level teaching -- even took a couple years off and spent in the bureaucracy in Sacramento. So I know where you're coming from.

William Haldeman: Jack, as you proceed, and I think you probably will, do be specific about which standards exceed WASC so that we can address those.

I will be very, very specific, but I just wanted to let you know that I think I know whereof I speak, and I'll be addressing primarily Section 100G and 205 as it refers to faculty requirements, primarily point one. Because I think almost everything else that I had in mind has been pretty well covered here, so, I won't need to repeat any of that.

It is obvious that the intent of the proposed regulations that all postsecondary institutions of higher education governed by the new Council *shall* have full-time faculty people -- faculty members -- for instructors. Although I previously informed you both orally and in writing of my views, that regulation is unreasonable and not feasible financially if the same requirements remain. Permit me to take a different tack today and address the real world of faculties for instruction.

Many traditional private and public universities in California have been, and are, providing large blocks of instruction with no, or at best a few, full-time faculty members involved. Programs which have been accredited by WASC, very similar to the school I'm operating and some of the others. So, you understand where I'm coming from. The classic example, of course, is the Whitehead School of the

University of the Redlands. It offers courses at numerous sites in Southern California, exclusively with part-time or adjunct faculty members. Laverne, Pepperdine, Chapman, and National are others. When I was at USC, a number of years ago, I was the only full-time faculty member coordinating the Criminal Justice courses in the School of Public Administration.

At that time, it was the heyday of the GI Bill, and the students, there were over 1,000 students in Criminal Justice courses, taking an average of 6 units each. Other than one or two courses which I taught, all courses were taught by adjunct faculty members. In other words, if we had to have a full-time faculty member based on your FTE and so on, we'd have had to have about 20 people full time on the faculty just to teach the Criminal Justice courses. That doesn't take into consideration all of the other courses involved.

William Haldeman: Jack, excuse me. Where does it say that you require full-time faculty?

Look at 205. What does it say? It says, 205, number 1, "Instruction is provided predominantly through classroom instruction, and . . . maintains a ratio of full-time-equivalent students to full-time-equivalent faculty not larger than 25:1." You can interpret it any way, but I interpret that to mean that you have to have a full-time faculty person, period.

William Haldeman: No, that's . . . .

That's what it says. I'm using FTE now. I'm very, very specific on that.

William Haldeman: That is clearly not clear.

It's certainly not clear to me. As I read it, it says "you shall have" period.

William Haldeman: It is not intended . . . .

It may not be intended, but that's what we talked about before, and it isn't any clearer now than it was four months ago.

William Haldeman: Go back to the drawing board on that one.

Let's take California State Universities at Long Beach, Fullerton, and L.A. Now, I'm talking about the Criminal Justice program, but this is just an example that I'm familiar with. So, each of those programs have about 500 FTE students in their Criminal Justice program. They teach about 30 units upper-division course work. So, they have the equivalent of 500 FTE students in the Criminal Justice program. Each of those universities have six full-time faculty people. Consequently, if they adhere to this requirement, they'd have to have 20 people, and if you take into consideration their graduate program, you'd have to have about 22 to 25 people on their faculties. I can't see the State of California underwriting that much salary . . . . In fact, if I were still teaching at Cal State Long Beach, where I taught for 23 years, my salary, my total benefits package, and everything -- 49 percent . . . benefits package -- would be about $80,000, and I would be obligated to teach eight courses per year.

Yes, since I'm not there; they're very happy about it. But, now they get two and one-half times, or 20 courses, taught for the amount of money that I would have drawn for myself. So, I think they were glad to see me go. They give me a gold banana tree.

William Haldeman: I want to reiterate on that section, Jack, that it is not intended to require full-time faculty, and we will work to clarify that so that it cannot be misinterpreted.

Yeah, because . . . and then down at the bottom ". . . as used, full-time-equivalent faculty means the number resulting from dividing . . . ." I can't interpret it any other way. Then, of course, when you get into what the expectations of faculty are, counseling and advisement . . . I mean, I can do an awful lot of that myself, and I do; probably better than my full-time faculty people.

So, when you start getting into the cost factor, no existing university could adhere to that formula, at all, and certainly, we who are starting out -- I mean, our tuition is very low; we want to keep it low, 'cause we're dealing with professional peace officers who are professional workers exclusively. These people are older, most definitely. When we graduated a class a couple of weeks ago, the average age was 42 years old, including Captains and Lieutenants from police departments and probation people.

They're very much concerned, because we are doing something different. We're very traditional in our instruction, very . . . university. The only difference, in fact it's no difference, we have a . . . format for teaching, but it's no different from USC or what any other university they're doing too. After years, we've established credibility with the Chiefs of Police, the Chief Probation Officers -- Joe McNamara, John Robbins, so on. We have a Criminal Justice Public Policy Council which is very supportive of what we're doing, and we'll have to get into that area, too, which includes Chief Justice Stanley Moss, State Senator Ed Davis, and people of that caliber, who're working to fill the gaps. We're not trying to compete with the Long Beaches, or the USCs, or other programs. We're doing something different than they are doing, and we're taking our program to the field and meeting the needs of full-time people who could not otherwise participate in further activity. In other words, the local life-long learning work concept, which is perhaps . . . now, we're going to have to be involved in.

But, I think all of the other comments that have been made. I thank you for this second opportunity.

General comments made by William Haldeman

There has been some attempt, in making this list, to keep the discussion -- focus the discussion -- on the regulations having to do with degree-granting institutions at this point, early in the meeting, and for that reason, I want to go back and pick up those that may not have been here when I called their name. Is there anybody whose name is on the list?

Your name is?

Gary Linker: Gary Linker.

Okay, Gary, could you come up now and address the panel, please?

And, is Hal Doughty here? Or any of the others that we have bypassed in the process. I don't want to miss you.

Gary, go ahead.

Gary Linker, Pacific Graduate Institute, Santa Barbara

Chairperson, Members of the Commission, Ladies and Gentlemen, my name is Dr. Gary R. Linker. I'm Vice President of Pacifica Graduate Institute of Santa Barbara. I'm pleased to have an opportunity to speak with you today regarding implementation of SB 190. Realizing there are many people who want to address you, I'll make my comments short and to the point.

For the past 10 years, Pacifica Graduate Institute has enjoyed the status as a degree-granting postsecondary institution, offering a master's, and recently a doctoral, degree program in Counseling and Clinical Psychology. I've witnessed the attempts of the State to establish a meaningful criteria to assess the capability of schools like ours to provide quality education to the students who attend our school. I've seen the success, and I've seen the shortcomings that come in trying to implement vague and sometimes general criteria of performance, both in serving as a review team member and having such teams visit our institution. Having had this opportunity, I believe I'm in a fair position to be able to say that the work your committee has done to grapple with the difficult task of determining fair and equitable standards, in my opinion, is outstanding. The reason why I say that is because, to my memory, this is the first time that a State agency has taken the bull by the horns and attempted to define several controversial and elusive aspects of school life.

For instance, I appreciate the Commission's attempt to try and determine what is an acceptable criteria for defining full-time faculty, the faculty-student ratios, or the composition and responsibility of governing boards. While I'm certain there is work to be done, as is evidenced in today's hearing, in fine-tuning such language, I sincerely hope the Commission will use your work as their guide as they adopt regulations that will accompany the new statutes. I'm confident that the Commission made use of many existing sources of information as their guide for developing the draft regulations that we are commenting on today. I would like to focus my brief remarks on the fact that each criteria (sic) bear a very close resemblance to those of the Western Association of Schools and Colleges. While in some places this Commission has gone into greater detail in defining formulas, in other places, the Association has.

There are obvious, notable similarities in what each of these respective bodies seeks in terms of operationalizing these standards. Given this reality, I believe it is appropriate and justified that this Commission seek to add to the regulations the words "commensurate to accredited schools." Now, I recognize that there is a bill pending in the Legislature, but frankly, I give that bill little chance, and I believe that if this Commission's going to step forward and take these steps that they have to define the standards as you've done, it is also within their purview to include those terms.

By utilizing such language, the State would itself be following the example that they are asking of schools themselves -- that of full disclosure. I welcome the stipulation that the Commission is proposing, relative to the requirement that affected schools fully disclose the nature of their operation to the public -- including program costs, policies of enrollment, and student services it will offer. By including language that these standards are commensurate to accredited schools, I believe the Commission would also be informing the public that the highest standards of excellence are expected of California State-approved schools whether they seek accreditation or not. What I'm saying here is that if you want the schools to be fully disclosing, I think the State should also indicate to the public that they are now receiving the highest standards relative to the operation of these schools.

I do want to express my appreciation to the Commission, and to you Mr. Haldeman, in particular, for your hard work. It's been refreshing for me to be able to call you, as I have on a couple of occasions, and find my questions and points of clarification are thoughtfully received. I want to thank the Commission for its openness and expressed desire to consider all input, and I seriously hope that consideration will be given to the suggestion that the additional language of "commensurate to accredited schools" be added to these regulations. Thank you.

General comments made by William Haldeman

Audience: Could I speak one more for degree-granting?

We smiled because this has been an issue among us as to how we were going to divide this up -- whether we'd give the nod to those that have given us advance notice of their intention to speak, or whether we'd bunch the speakers -- and I, unfortunately for some, have preferred to give the nod to those that have given us advance warning. So, we will go with the written requests to speak after we have those that are on the printed list.

So, we will go on with those that are on the list as long as we do not have any more that we have missed on the first page of that list. Tom, W.D. Polich? We're going to move ahead, then, to the rest of the list, and that will include Diane Arnel, Julia Morally. Is either of those speakers here? Gary Lackery? Lillie Vejar?

Audience: Bill, a piece of information was given out to the vocational schools that they probably would not be heard until the afternoon. That may be why those names are not here.

Are you feeling that that's right? We had discussed that in the office, and I'm not quite sure how it got out, but that being the case . . . .

Audience: Point of information? Do you have proposed regulations for the non-degree schools?

How's that?

Audience: Do you have other proposed regulations, or just the appendix that's in here?

What is it? Accompanying the Appendix C, or attached to the SB 190 regulations for the degree-granting, there are some additional for the vocational, on that same package. The gentlemen that just spoke with me I think left, did he not? Or stepped outside.

Gary Linker: He's outside.

Yes, would you get him, Gary, please?

Because that information went out about the possibility of doing the vocational after lunch, let's take those who did request to speak.

We have a problem. We've got a problem, and we'll go to the degree-granting now.

Audience: Point of information? I'm here from a vocational school that was not told to come in the afternoon. I have a class of 40 now who are watching videotapes, anxiously awaiting my return.

Okay. Let's see if we can get the couple of gentlemen, or the one -- your name is?

Babboni: Dr. Babboni, from Bethesda School of Theology.

Have you made out one of these ...

Babboni: No, ...

Let's take it. We have only two people that have asked to speak on degree-granting institutions. Let's do that and then go ahead with the list, and if we've got -- this may be asking . . . .

I'm sorry.

Are there any more of these little yellow sheets floating around?

Then, we're going to take these two, and you need to speak before lunch? Is that it? Are there any others that have a real pressing need, that are on our list, to speak before lunch? We may get everybody in before lunch the way things are going, but let's do it this way now. We'll take those connected with degree-granting institutions that have requested to speak. Dr. Babboni, you're next.

D. A. Babboni,
Bethesda School of Technology

Dr. Babboni, Bethesda School of Theology. Just a few quick comments. I think there's a lot of problem with the faculty definition. I think this was brought up several times adequately. One gentleman mentioned that there's only two definitions for faculty: full faculty and adjunct faculty. I think it was a very excellent suggestion about a definition for part-time faculty. Most accredited schools have at least three definitions. Then, to clarify, some type of a statement that Section 205 does not necessarily require full-time faculty.

William Haldeman: Yes, we will go back to the drawing board on that.

The next problem we face -- we're a Korean school. The majority of our professors have master's and doctoral degrees. But, many, many of them are from Korean institutions. They are not "accredited" degrees. But, they're recognized degrees. They're foreign degrees. Now, my question is, when WASC goes into a university, is it okay when people have doctoral degrees from Oxford and Cambridge? I mean, what are we calling "accredited" if we're talking foreign degrees? It's a very big problem for our institution when 75 percent of our faculty have master's and doctoral degrees from Seoul National University and Korea University, which are prestigious universities in Korea, but which, you know? How are you going to define those for us? I think that is an absolute must for a school like ours, some kind of a definition of foreign degrees.

Lastly, some of my religious colleagues here are feeling the same frustration that we are in relation to religious schools. In the past, California has been somewhat liberal with their allowing separate categories for religious institutions and religious schools. I really feel that some accommodation is going to have to be made for religious schools, or religious schools are going to go underground, and the State of California is going to be burdened with massive lawsuits, Constitutional lawsuits, dealing with freedom of religion. You're going to put our religious schools in a position where they don't have any choice to do this. I know many of us are feeling that right now.

William Haldeman: It would be worthwhile, I think, for the religious schools to be very clear on where the real pinches come, and let us have that in written form.

Our problem is that it is very difficult for all of our religious schools . . . .

William Haldeman: You can do it individually, but as religious institutions, tell us where it pinches. We'd like to know ...

With most of the smaller religious schools, one of the problems is the faculty. We have very few full-time faculty members. Most of the curricula are ministerial and missionary oriented, and most of the faculty come from part-time, pastoral people or some others who are faculty members at other accredited schools who come in and teach part time for us.

Most of us don't want to be accredited. Our school is fully recognized by our denomination worldwide, and we send our people all over the world, and they ordain our people. We don't care about accreditation necessarily. We're more concerned inside our own denominational sphere. So, it creates a major problem for us to conform to some of these things from a religious perspective.

But, we give a full curriculum which meets bachelor's standards and those kinds of things. But, some of these restrictions would cause us a problem from a religious perspective.

William Haldeman: May I ask, what is the -- how do you entitle the degrees that your school awards? What is the designation of the degrees awarded

In the past, it's been the Bachelor of Ministry.

John Tamiazzo, World University

I'm representing World University, in Ojai. I have read through all of these proposed standards. My major concern, as we were discussing this in some of our meetings, was your relationship to Western Association. Is being approved going to be a stepping stone to accreditation? Are approved degrees going to be recognized like accredited degrees?

If there is a regulation, as in Section 205, Part C, that at least half of the faculty who supervise doctoral programs shall have -- actually above that: "The highest degree in an academic discipline from an accredited institution is the primary evidence of appropriate training." Now, what is the implication of that? Are you saying that the highest academic achievement is from an accredited institution, and that's the primary evidence of appropriate training? Or is that just a statement giving an example? I mean, is the implication that the highest achievement a student can make is from an accredited institution and not from an approved institution? Is that what you're getting to?

William Haldeman: That's the way that reads.

If that is so, then what is your relationship to WASC? Are you saying that your degrees are inferior? If you're requiring half of the staff to be from accredited institutions, are you going to require accredited institutions to have half of their degreed teachers from approved institutions?

I mean, why take an inferior position? We're supporting you in what you're doing, but I don't want to see approved degrees be in any way diminished, since you have these regulations, and they are very similar to Western Association regulations.

William Haldeman: I hear you.

Then, I have another one. Is it true that in the State of California all degrees are equal under the law? Isn't that a statement made through the State Department of Education: all degree granted . . . .

William Haldeman: I'm sorry, where are we?

We're not in here, actually, but I have read that before, that all degrees are equal under the law. Is that true?

William Haldeman: I don't think -- I'd have to see that in writing.

Okay. Another question is since this Council won't be effective until January, 91, if I'm correct, we just submitted some new programs to you. Will all of those be detained until January, 91, or are they still going to be reviewed and responded to?

William Haldeman: That's a process question that we're not really capable of answering at this point. We are a separate agency from PPED that is processing those applications.

Just in closing, I just wanted to support your Commission and what you're doing, but I hope -- and I really do more than hope, I suggest -- that you don't allow Western Association to in any way make you believe or think that their degree-granting institutions are in any way superior to approved institutions because they're certainly not.

William Haldeman: Thank you for your testimony.

Gil Boyne, Hypnotism Training Institute of Los Angeles

William Haldeman: At this point, we 'll go back to the printed list that you have. I will recognize this gentleman's urgency. Are you on the list here?

Gil Boyne: Yes.

William Haldeman: And your name is?

Gil Boyne: Gil Boyne.

William Haldeman: Gil, would you come forward and speak to us at this point?

Gil Boyne: Yes, thank you Mr. Chairman and members of the Commission. I'm grateful for this opportunity, although I must confess relative ignorance compared to many of the people that are here. I just returned from two months of teaching abroad, in England, New Zealand, Australia, Japan, and so on.

William Haldeman: Excuse me, could you, for the record, identify yourself so that we have that?

Gil Boyne: Yes, I am the Director of the Hypnotism Training Institute of Los Angeles. We teach hypnotherapy as a career. I achieved the first licensed school of hypnotherapy in the nation in 1977. Since then, I have trained an average of 250 students each year. Our program is 200 hours of training. We give it both in semester sessions or accelerated training, which are 10 hours a day for 1 month each day of the week.

William Haldeman: And your name is Gil Boyne? I don't think we have that.

Gil Boyne: That 's correct.

William Haldeman: Now, we've got it on the record, and you may go ahead.

Gil Boyne: Because of my lack of recognized academic degrees, I want to take just a few seconds to establish myself. It was in 1977, '75, at the direct invitation of OPBE that I went to Washington and persuaded the Department of Labor to initiate hearings that led to definition of hypnotherapist in the Dictionary of Occupational Titles. April 9, 1989, I appeared again before the United States Department of Education and spoke to a panel of 24 college presidents, and our programs were accepted for publication in the Classification of Instructional Programs. Our schools were listed in the Directory of Postsecondary Education, Vol. II.

I speak for 16 schools in California, and 12 others throughout the nation, as the Executive Director of the American Council of Hypnotist Examiners, which is the world 's largest certifying agency for hypnotherapists. This is the list of schools I represent. In addition, I have been consultant on approving hypnotherapy schools for the State of Michigan -- for one year, chiefly because no psychologist in Michigan would agree that hypnotherapy should be taught to those who weren 't licensed in psychology. I have been, informally, consultant to the State of Georgia, as well as the states of Maryland and Utah.

Now, although I lack accredited degrees, I have been awarded two honorary degrees from major universities on the basis of my life 's work. I 'm 40 years in this work. Having said that, I 'll go on. Oh, I also have been named by your agency as a member of a visiting committee to visit schools to see if they are meeting their standards. I am the author of a major textbook called *Transforming Hypnotherapy -- Transforming Therapy, A New Approach to Hypnotherapy.*

I 'm mostly concerned with the issue about placement of students required by vocational schools. In our classes, students come for three purposes. We have a percentage of professionally licensed counselors and therapists-psychologists, marriage counselors, etc., who come to add hypnotherapy to their existing tools that they use within the framework of their occupational title.

The second group are those who are interested in a career change. Most often that career change is being considered as a retirement career, sometimes five, or even ten, years into the future. Very few are prepared to make a career change immediately upon completion of the training.

The third group come for what I call "personal research." Most of them report that they are greatly interested in human behavior, that they have taken informal courses in psychology. They really have no interest in developing a career or in career change, but they have great interest in the subject matter.

They 're really studying it, initially, as an avocation. Since this subject is not taught in American universities and colleges, they have no other option, no other place to go to learn it. Therefore, it is not practical or possible for a school like mine to make any commitment as to any percentage of students that will enter into the field.

Finally, this is a self-directed, personal service occupation. There are no ads in the Los Angeles Times seeking hypnotherapists. Occasionally, a clinic which may be headed by a psychologist or other licensed people, recognizing their lack of knowledge about hypnotherapy, recognizing the public demand for hypnotherapy, will invite a hypnotist to come in and join the group. But, that is the exception.

Almost everyone that is in this work, and when I started in 1956 there were less than 10 hypnotherapists in the State of California. There are now 800. That represents 28 percent of the total population of hypnotherapists in America. It is a burgeoning and growing occupation, increasing about 50 percent each year, as more and more schools are licensed throughout America.

I also have been active as a political activist throughout America in resisting, and in every case defeating, 44 pieces of legislation that would have restricted the practice of hypnotherapy. Mainly on the grounds there 's never been a single documented case of harm resulting from the use of hypnosis. That's over a 25-year period.

My request to the Commission is that the consideration of self-directed personal service training, or training that results in a self-directed personal service occupation be deleted from any requirement for placement or that they be engaged in that occupation for which they were trained within a given period of time.

Finally, there 's only one school that offers student loans. That 's the Hypnosis Motivation Institute in Van Nuys. As President of the International Association, I don 't think this hypnotherapy training should qualify for student loans, under any circumstances. I just think that not enough people get into the career, and these schools push loans which are not repaid, and therefore are a burden on the taxpayers.

Thank you for your kindness and consideration.

William Haldeman: May I ask a couple of questions? Your chief concern has to do with the requirement of placements? I understand this. Are any of the hypnotists -- the 800, did you say, in California?

Gil Boyne: Yes, 800 in California.

William Haldeman: There is no licensing provision for hypnotism?

Gil Boyne: No, this is a non-licensed profession.

William Haldeman: Do you know if any of these are full-time employees -- do they practice their services full time?

Gil Boyne: They 're divided into about 40 percent at any given time, about 40 percent are full-time employed, and the 60 percent are developing their career. Generally, it takes two to three years to develop full-time employment sufficient to support the practitioner. So, most or them will start and maintain their present job or occupation, work evenings and Saturdays in an effort to begin developing the reputation which leads to referrals, which then leads to a full-time occupation.

William Haldeman: So, perhaps 40 percent of these may have full-time work?

Gil Boyne: Yes.

William Haldeman: After a period of years?

Gil Boyne: That's right.

William Haldeman: Thank you very much.

Audience: Mr. Chairman, may I add a point to that?

William Haldeman: Would you like to identify yourself?

Dr. Tilden: I'm Dr. Tilden. Some licensing is required for MFCC, as Mr. Boyne knows. He's one of the experts . . . .

Gil Boyne: Those who have MFCC s in California; they must be licensed.

William Haldeman: As hypnotists?

Audience: No . . . .

Gil Boyne: I'd like to clarify that. Since I attended all the hearings, I'm very conversant with it. When the marriage counselors were licensed, the Board -- certain psychologists on the Board -- opposed their licensing. So, as a kind of bargain, it was struck at that time that marriage counselors would be forbidden to practice hypnotism, which was very unusual because at that time the shoe-shine boy could have practiced hypnotism. They were the only ones forbidden. I spoke to a State Senator, and an amendment was introduced to allow marriage counselors to practice hypnotherapy. The following year, or session, hearings were held. Finally, it was decided that was given that privilege of training marriage counselors.

For the next several years, schools like mine trained marriage counselors in 40 hours of hypnosis education. They were further required to have 30 hours of supervised experience -- supervised by a psychologist. Then, it was changed, and instead of schools, provider numbers were given to qualified providers of hypnotism education. We were the first to get that authority from the State Board of Behavioral Science Examiners, and that license has been renewed every year since then be part of a university training. I think the reason it isn't is because of a very peculiar thing. Freud rejected hypnosis, and training in psychotherapy at the university begins from the position of psychoanalytic psychotherapy, or the Freudian concepts.

William Haldeman: We're probably getting a little more history here than we need.

Audience: May I ask just regarding the licensure, then, that results from that, from what you've described: does that mean that an MFCC license may contain some special stipulation concerning hypnosis.

Gil Boyne: Yes, they are . . . a special designation is put upon their license that they are authorized to practice hypnotism. Without that special designation, they are not authorized to practice hypnotism.

Audience: It's a separate license . . . ?

Gil Boyne: Is it now a separate license?

Audience: No.

William Haldeman: Thank you very much.(can't find in file)

Paul McGuirk,
DeVry Institute of Technology

William Haldeman: Have we called Diane Arnel? I didn't recall.

Gary Lackery or Lilli Vejar? We've heard from Gil Boyne. Richard Fortyune?

This is the vocational group. We will be here after lunch, but let's take whoever is here on this list at this point.

John Minnella? Paul McGuirk?

Paul McGuirk: Here. My name is Paul McGuirk, and I'm representing DeVry Institute of Technology. DeVry is an out-of-state, regionally accredited institution offering degrees to the baccalaureate level.

I'd like to thank you for the opportunity to comment on the draft regulations to implement Senate Bill 190. As opening remarks, I'd lke to begin by reiterating the previously submitted comment to Section 94303 of SB 190 to lodge the following objection: "Articles of this chapter shall not apply to institutions which are accredited by Western Association of Schools and Colleges." While we recognize the intent of the Commission's decision to exempt degree-granting institutions originally accredited by Western Association, we question why this same exemption was not granted to other regionally accredited degree-granting institutions.

The Council on Postsecondary Accreditation, as you know, recognizes schools, and its accrediting body recognizes other schools that -- they use the same criteria . . . other schools as Western. So, whether it's Middle States or Southern, we wonder why this doesn't apply to the out-of-state regional schools named in North Central as well. That's just an opening aside.

I'd like to, first, talk about Section 205, The Faculty, Including Their Qualifications, Part A(1), Student/Faculty Ratios. We concur with the Commission that institutions should be required to employ faculty in sufficient numbers to deliver quality instruction. However, we strongly urge that the language setting upper limits of 25:1 for student/faculty ratios of classroom instruction be eliminated. The appropriateness of institutionally determined student/faculty ratios be judged by student outcome, such as achievement, persistence and career placement. We suggest that provision allowing schools to present evidence to the effectiveness of their performance standards for faculty/student classroom ratios and recommend that a proposed language change be effected.

I will be giving some written information as well. The written comments are observations and evidence which I believe support that deposition.

Under Section 205, The Faculty, Including Their Qualifications, Part C, Faculty Degrees. We applaud the Commission's attempt to insure academic quality by requiring faculty to have requisite knowledge and skills and deliver quality educational programs. We do not debate the intent of this section, or the requirement for faculty to have graduate academic training or degrees.

In selecting faculty, our institute, DeVry, faces special challenges that arise from the nature of its application-oriented programs, to perform educational mission. Educational goals play a central role in setting appropriate criteria for faculty selection. Institutions preparing students to enter occupations are usually interested in selecting faculty based on work experience and occupational proficiency, as well as advanced degrees. We recommend that the draft standard be revised to require that 75 percent of the faculty in a particular program hold terminal degrees at a level one level higher than the degree offered. We agree with that.

But, we don't necessarily agree that it should be the highest degree in the academic discipline. We, at DeVry, teach many very new programs, Telecommunication Management being one, where there aren't too many schools that are putting degreed people at the master's level teaching these programs. So, we have to rely on training from industry.

William Haldeman: Your degrees are at what level?

Paul McGuirk: Baccalaureate.

Under Section 207, Financial Resources, we recommend that this section be modified to include the following: the applications of generally accepted accounting principles to the amortization of good will and intangible assets, taxes on income, pension plan obligations and post-retirement benefits other than pensions may result in an institutional financial statement which does not necessarily meet with the criteria set out in this section, 943115b even though the institution is financially responsible and does have sufficient assets to fulfill its educational mission. In this instance, what we would like to see is that the institution be allowed to present evidence to the Commission to demonstrate that it is financially responsible. This information shall be included in the institution's most recently conducted financial audit, which is conducted by a licensed Certified Public Accountant, with a clean unqualified opinion. The institution may also submit information from outside creditors to prove that it's a financially viable and responsible organization. Having presented this information, we will let the Commission make the determination as to whether or not we are financially viable.

Under Section 210, Tuition And Fees and Refund Schedule, Part G(2), The Refund Policy: a review of the refund policies of private and public institutions in California indicates that many California institutions that would not be required to comply with this policy due to the WASC exemptions do not refund any tuition after the fifth week, and in some cases the third week, of school. The refund percentages used by the reviewed institutions are also less favorable to students in the majority withdrawal weeks as compared to the refund policy we currently have.

We are in agreement with the overall policy. However, we recommend that the proposed refund policy outlined be modified in two areas. Withdrawal during the first 50 percent of the scheduled class should be refunded at -- 50 percent, not 60 percent as you show. The 60 percent figure implies withdrawal occurred within the first 40 percent of the term. Two, that the institution should be allowed to charge an administrative fee to cover some of the original costs of the application.

The last point, under Section 217, Degrees Offered, Part B, Distribution of General and Traditional Requirements by Field, we agree with the Commission's assessment that one-fourth of the requirements be in the general education area for associate and baccalaureate level degrees. DeVry's program is structured to incorporate general education which is relevant to a particular program of study. We believe this more effectively broadens the students' educational perspectives, which is the essential purpose of general education.

The fields specified by the Commission in this section encompass traditional broad areas, and our own more confining than general education is normally construed, namely: Communications, Quantitative Analysis, Humanities, Social Sciences, and Natural Sciences.

We believe that an appropriate and flexible system of general education distribution be maintained. We recommend that the required general education distribution be modified to encompass the more traditional, broad, areas which allow an institution the freedom to make specific choices to avoid narrowing the scope of general education.

In closing, I'd like to encourage the Board to continue this practice of . . . school participation in the regulatory process, and I thank you very much for the attention.

Karen Carlton, Ramara Association

Obviously, I'm not Roy Agee, but he had an emergency, and I'd like to fill in for him. My name is Karen Carlson. I'm with Options Unlimited, and I'm part of Ramara Associates.

I only found out that I was going to do this last night at 10:00 o'clock, so I'm kind of winging it here. When we received our memo, we were a little confused. We had been under the impression in 1402 that it's been the law, and is the law, and everything, and that this was essentially going to be discussing 1401, which is coming right around the corner here.

William Haldeman: Is that what the notice said?

No, it was just the interpretation. I've reviewed . . . and that's what their interpretation is -- that 1402 is as it is. In any case, I've tried to adjust with your manual, relating back and forth, and identify the proper pages.

In 1402, Section 94311, the topic the State determines what is quality education and training. There's no reference anywhere to the qualifications of the individuals who are going out on these site reviews. That makes it a very difficult situation to determine what makes a quality program. Being one of those reviewers, I have a very large sympathy for that fact. Being in the business about 10 years, I know most of the business processes; I know the rules and regulations, but as far as, I come out of a business school, what makes it quality education in a truck driving school, or cosmetology school. I have to go on gut-level assumption. You don't have time to sit and read. You have a one-day site visit. You don't have time to sit and read through all of the textbooks that they show you. All you can do is make a gut-level assumption. There really should be some kind of academic program specialist, as they do on the national accrediting teams.

William Haldeman: Excuse me, but may I ask, have you been on -- you say that you have been a program reviewer, or a team site . . . . Had you been asked to, have you been assigned or recruited to teams that have visited institutions outside of your specialty?

I've been with the NATTS people, and then you have support in the academic area. And yes, I have as a site reviewer. There's one person who goes out, and I had a truck driving school and a travel agency school -- none of which I know anything, really, about; what makes a good -- is this a good textbook, you know. This is one thing they ask you for. Is this a good textbook? Is this a lesson plan? You end up making this kind of fly-by-the-seat-of-your-pants questions about.

William Haldeman: Excuse me, I'm sorry to keep interrupting you, it's your own testimony, but it's useful for me. It's your expertise, the base, in addition to the business deal, which is also education?

Right. Exactly. There's one program reviewer that goes out to a site. You look at the entire school from top to bottom. We have a program review document about that thick. The "are they in compliance" issues -- those are very simple. They're very straight. They either are or they aren't. But, when you talk about is this a good teaching procedure for this course. Things like that.

William Haldeman: Okay. Your chief point here is that we need more specifications for the site visitors for the vocational programs.

Right. The next one is, under 1402, and I'm not sure if I got the pages right, I think it's Section 94311.1. I've been trying to flip back and forth to do these. The main problem is with change of ownership, essentially.

William Haldeman: 94311.1 is SB 190. It is, of course, statute for which we are developing regulations, and whatever you have to say certainly is appropriate.

The situation is, as it appears to be in 190, that the school is not allowed to . . . is essentially in limbo for 180 days while the State makes up its mind as to whether or not it is going to grant ownership. In some cases, funding can be cut off, accreditation can be cut off, various things can happen. In 1401, there's going to be a provision for branches to have a temporary approval, and we feel this is only fair for actual changes of ownership because here's the documentation, look and see if the i's are dotted and all the t's crossed, and you're going to temporary for a period of time where they go on until all the final site visits and everything else have happened. Because, the way it is now, they submit an application; the State has 90 days to look at it; and then the reviewer goes out, and they have another 90 days to make up your mind. That's an incredible amount of time for a school to be in limbo.

William Haldeman: I am looking for the law on that, and I guess I was mistaken that it was in 190, because I cannot find it. This is for change of ownership, which you're addressing? And yet, you said it's 94311.1.

This is 1402, 94311, I think, point 1.

William Haldeman: The question there, for the purpose of your testimony I suppose, is whether or not that is specified a maximum or a minimum for the 180 days. I cannot imagine how it would be required that the institution or the Council wait that long.

Well, it's not required, but it happens frequently when they get backed up.

William Haldeman: The point I'm trying to make is that we still have a ways to go, I am assuming, in developing regulations to address this particular concern. We can take your concern into account.

The, going on into 1402, on page 44, 94317 is page 44 of the document. There is confusion as to returning equipment, and documented . . . and things like that. You know? What do you do with returned equipment that's not in reasonable use?

William Haldeman: It's not in good condition. Is that what you mean?

Right.

William Haldeman: If it's been mistreated, it's not functioning, or whatever. . . . Okay, let's be clear about what we're doing here. Your comments are addressing needs for regulations to clarify sections of the law for which we have not developed draft regulations yet. We have not addressed these things. But, they are concerns. If they need clarification, we will need to address them. So, from that standpoint, you certainly are -- your testimony is appropriate.

In 190, 94312, Article II, it says that the cancellation policy is prior to class, and they shall keep $100.00 registration fee. However, in the refund policy in 94318 in 1402, it says that you must give them five days to cancel, and give them back all of their money within that five days. So, there is a conflict between those two.

William Haldeman: In cases of conflict, I believe the statute says, in which the institution may be subject to either or both, the 1402 legislation takes priority.

Then, on 1402, on page 52 in your document -- I did not have the document ahead of time -- we never got one of them -- on the ability to benefit. The ability to benefit says you must test all students. Everybody, even if they've got a master's degree or Ph.D., or whatever. That seems kind of ludicrous. The feds have used a comfortable contents. Essentially, what we're saying is that you don't, we don't think that you're qualified to learn to be a whatever, and we're not going to give you the chance to do it. And, the recommendation is to use an ability to benefit and satisfactory progress type thing, as laid out by the feds. It's been very workable for quite some time.

William Haldeman: You're addressing Section 94319.2?

Right.

William Haldeman: The ability to benefit requirement. All right. We don't have anything drafted on that. I can't believe that what you just said was the intention of the Legislature, but since I'm having a hard time interpreting it myself at the moment, we'll simply look at that when we draft regulations.

There's one other point in that same section on line, I think it's line, 66. But, it's page 52 in the ability to benefit description. It says that there shall be no help in taking the test. Now, that discriminates against someone who's blind. That says that they can't have a reader to help them take the test.

William Haldeman: We'll have to deal with handicapped persons.

I think that's it.

William Haldeman: Thank you very much.

By the way, I do agree with a number of the statements that were made earlier with regard to the graduation placements and so on. Particularly, with regard to the fine arts schools, the acting schools, the modeling schools. Things like that where they -- no, they're not going to go out and get a full-time job. Their whole purpose in life is not to get a full-ime job.

William Haldeman: Thank you. Karen, did you make out one of these written statements -- I mean, these requests to speak?

We had phoned in some time ago.

William Haldeman: We just -- we do not have your name written down, and so that we get it spelled correctly, you might help us out on that.

Larry McHarg, Real Estate Trainers

I'm Larry McHarg, and I am President of Real Estate Trainers in Santa Ana. I am also administrator for some of the Century 21 Real Estate schools. I understand that there are trailer bills following along which may exempt us from many of these requirements, but as of this point, they're not law yet, and I would like to speak to the regulations, specifically in Appendix C.

I have two minor clerical points to ask a question about, and two major objections to make. The first minor point concerns regulation 1130(a), then tying that into four and five. "(a)" says, "Each instructor shall possess at least one of the following . . . ", and then there is a list of five items. At the end of four is the word "and." Should that be an "or," or does each instructor have to possess one of the four items and also item five?

William Haldeman: That needs clarification.

Also, item five said " . . . possession of a license to teach issued by an appropriate State licensing board or federal agency". If every instructor must possess this, what State or federal agencies are you referring to here that they would need a license from? That needs to be specific.

The second minor point that I would like to make deals with regulation 1140(a). It says, "The institution shall maintain a file for each student." I would assume that, in this technological age, such a file could be either written or on a computer. However, I have found that when I assume things, I often get myself in trouble. So, I would suggest that the wording be changed to "the institution shall maintain a written or computer file for each student."

William Haldeman: The question here is how could you do contracts with a student by computer?

You would have to have the contract in writing. I agree with that. However, the student's records in class, his attendance, his grades, what have you, could certainly be supplemented by a computer file.

My first major objection deals with regulation 140(b). According to this regulation, each institution must keep a copy of its student files for a minimum of 10 years. This seems to me to be excessively long. According to AB 1402, the law requires each institution to maintain records for not less than five years, and I'm wondering why that was increased to 10 years? According to the California Statute of Limitations, breach of written contract, you only have four years to sue on that, and the Internal Revenue Service only requires us to keep records for seven years. So, 10 years seems like an exceedingly long time. I would request that this regulation be changed to conform with AB 1402 and require that records be kept for five years.

My second major objection deals with regulation 1200(j) and regulation 1240(b). Let me just kind of summarize those in my own words. According to these two paragraphs, the application for approval of a school, or a branch, must include a description of the physical facilities. Then, after the application is filed, the Council has up to 180 days to decide whether or not the school will be approved. Most of our courses are short-term courses, and in our planning, sometimes we use leased classrooms, sometimes we use hotel rooms. If we use a leased classroom and we want to open up a branch school, then according to these regulations, we would have to go make arrangements to use that classroom, probably lease it for six months, and let it sit empty while we're paying rent while you would decide whether or not we could open up the branch school at that point. Six months worth of rent is significant for an empty location, and I know of no landlord that will agree to lease a space and then just let it sit for six months without collecting rent.

Now, I recognize the length of time that is necessary to approve a new school. Yes, that takes a lengthy time. But, once the school is approved, I would think that you could probably approve a new location within 30 days. I would suggest that as a change to that regulation.

That concludes my testimony.

Comments made by William Haldeman

Alan Green?

We will take one more testimony, and then we're going to break for lunch. No, let's reexamine that. Let's keep going because there's a good possibility we can finish everybody, and there's really no reason for everybody to stay around. However, we will come back to pick up anybody who had an understanding that they could provide testimony at 1:00 o'clock.

Alan Green, are you here?

Bonnie Lee?

Bonnie Lee, Richards Beauty College

Good morning. A few of my concerns are on page 1210, Expert Advisors.

William Haldeman: Bonnie, could you give us a full identification, for the record?

Okay, Bonnie Lee, Financial Aid Director for Richards Beauty College, Santa Anita, California.

On number 1201, the fee here for an advisory fee is $350.00. I find that to be rather high for a one-day visit, and I'd like to know who pays that fee? Does the school pay it? Does the advisor that comes to visit? Does it come out of the fees that we're paying to the Council?

William Haldeman: We're on 1210, did you say?

It says, "The expense of such an advisor shall include an honorarium of $350.00 a day, plus travel, which shall be reimbursed by the institution as provided in section 1230."

William Haldeman: By the institution.

By the institution, okay. $350.00 a day comes out to $45.00 an hour, if it's an eight-hour review. My experience with reviews is that a Department of Education review lasts around five days; an accrediting review lasts three to four days; California Student Aid Commission program review lasts around three days. That's an extreme expense for a school. I'd like for you to reexamine this. We're already going to be paying $2,500.00 for this, and $1,200.00 for this. On top of this bill, we also have to pay accrediting fees -- they're enormous right now; they're getting ready to increase.

There are fees, fees, fees. Cosmetology schools are going to be under five different agencies now. All I'm going to be doing as a Financial Aid Director is handling program reviews. I won't be able to do the financial records.

William Haldeman: The honorarium's too high?

Much too high. Unless, I'd like to have the job if it's going to be that good -- I'll get out of financial aid.

Also, because it states here that there might be more than one advisor. Say, for instance, you have a reviewer there for five days -- it's a possibility, if it's a large campus -- that's $3,200.00, $3,300.00 -- an extreme amount.

Also, I understand that there is a new trailer bill to the trailer bills. Can you touch on that with me? 4052, AB 4052?

William Haldeman: I don't know anything about double trailers.

I got word yesterday that there is a trailer bill, and it's AB 4052.

William Haldeman: No, I'm sorry, Bonnie. That's just beyond our scope of discussion today.

That's basically all I wanted to bring out.

William Haldeman: Thank you very much for that.

George Jump, Del Mar Media Arts

My name is Gordon Jump, and I'm speaking for Del Mar Media Arts. We're one of the few acting schools that is sanctioned by you in the State of California. We appreciate that and want you to know that. We feel that it would be a great advantage to all people interested in acting, at whatever level, to attend schools that were sanctioned. I can give you a list, however, of about 500 here that aren't, and welcome the day when we are all licensed.

On page 2083, we're talking about the disclosure of the employment of our students. That's almost an impossibility. When our students spend time with us, they gain a good underpinning which will help them secure employment if they are talented enough in fact, and persistent enough to go find that work. But, after we train them, there are six additional steps necessary before they will ever receive a job as an actor. They have to find an agent. They have to go to an audition set up by the agent. They have to meet a casting director. Then, they have to go through the directorial process, and through the producers, and by that time, we're way down the line.

So, the best we can do is to train them, give them good underpinnings, and then send them out. But, that's it, and it's hard for us to follow their activities after they leave the school. Because they can go to New York, Chicago, Los Angeles, now Texas, and do acting jobs. To be forced to do that through your current set up or system would be a great difficulty for us.

William Haldeman: What specific regulation are you addressing here, Gordon?

I'm addressing the one on disclosure of employment.

William Haldeman: Can you give us the number on it?

Let's get the number again. That is the statute number, but what is the number that you gave us? You'll find the statement on page 28, and it's third, number three.

William Haldeman: Okay. That is 94312, statute 94312, I-3 that you're addressing. I just wanted to get that on the record for our reference later on. Thank you.

Now, on the student catalog, 94334, on page 74, we talk about disclosure again in that catalog of our students who've successfully found employment. We can certainly talk about students that have successfully found employment, but we can't give percentages or large numbers. We think that that needs to be addressed.

Also, the security bond. We're a small school. Our tuitions are low. A security bond of $250,000 would be a financial burden to us. We have never, in the seven years of operation, had a problem with tuition. There have been one or two students who have paid in advance and not been able to complete the course. We've always returned their money. We have had one student that was disgruntled. We returned the entire amount that she paid for tuition and have never had to have any litigation against a student or students against us. That bond, we think, is an unnecessary burden, a financial burden.

We also feel that there is an inequity in what you're asking some of the schools to pay as a licensing fee with the State of California. A $12,000 annual renewal fee for schools whose tuition is only $400 per student is unfair when that same fee is being required of students, or I believe of schools that are charging $4,000 per student.

William Haldeman: That sounds pretty high -- $12,000 did you say?

I mean $1,200. I'm sorry. If there could be an adjustment made in that, that would be greatly appreciated.

William Haldeman: That, at this point, is statute, you understand? It is beyond us to address. There are other things that we're taking comments on statute because in the process of clarifying the statute, or implementing the statute, there may be possibilities of regulatory language helping out in some of these places where there is a pinch. In the case of fees that are set by statute, our hands are tied in that. I do not see any regulatory modification of those fees.

Now, we fall under your jurisdiction, even though we are in the Arts, and we find it inequitable that dance studios, who teach the Arts, vocal studios, who teach the Arts, and instrumental studios, that teach instrumentalists, are not under your jurisdiction. Why must the actor, or the acting school, be under your jurisdiction? We feel there is an inequity there, and would like to have that examined.

William Haldeman: That's something, I think, we can examine.

Thank you very much.

Comments made by William Haldeman

So, as far as our list is concerned, we have gone through all of the testimony from those who have asked to speak. Is there anybody else that would like to say something at this point? If you would like to, and do, we would like to have a "Request to Speak" form filled out. However, you don't have to do that first if you want to come to the podium. Just be sure that we get a written request so that we have your name on the record.

Yes?

Steven Crane, Lumbleau Real Estate School: I am Steven Crane, of the Lumbleau Real Estate school. I have a question regarding the proposed exemption for schools of $750 or less tuition. My question is . . . somewhere that we have to fall under . . . because the one in 1402 is different than the one that's in 190.

Schools that do not, that are exempt from 1402, but are vocational schools, would fall under SB 190, SB 194. In the statute, 94311 and subsequent sections under which the 94311 schools must respond. So, it would be the refund policy for those vocational schools.

Now, we really are not here to answer questions, but to take testimony. I assume that if we do not have further testimony we will adjourn for the moment. We will reconvene at 1:00 o'clock because there were some people who understood that they may have a chance at that point. So, we will be back here at that time. We would like to thank you for your presence. We would like to be sure, if you want to be on our mailing list, that your name and address is on the participant's list on the table as you entered. As revisions to these regulations are made, we will send them out. Or, if there are further hearings, we will send notification to you to keep you informed.

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Understand there are two processes going on. There is a legislative process still going on, which involves the trailer legislation which was referred to here. It has to do with SB 194 and AB 1401 and a couple other bills, whose numbers I don't have, that are of some interest, and will affect the statute that we are dealing with. When that legislation -- when and if it is passed and signed -- we will then modify any regulations that need modification because of the amendment of the statute. So, there will be some changes throughout the rest of 1990.

(After lunch break:)

William Haldeman: John Minnella? Paul McGuirk? Len Steinbarth?

Audience: He's not here.

William Haldeman: And, Dan Smith? And there's nobody that wishes to address us this afternoon?

Ton Bui, MTI College in Orange

This is Ton Bui, President of MTI College in Orange. The reason I'd like to talk very briefly is regarding the refund policy.

William Haldeman: The refund policy?

Ton Bui: Yes. We are a degree-granting institution, line 4, 310 (?), 21(a), and also we offer vocational programs. So, we assume that we have to . . . the refund policy of 1402. Is that correct?

William Haldeman: It depends on the type of vocational program. First of all, you are accredited as a degree-granting institution?

Ton Bui: Yes.

William Haldeman: By what?

Ton Bui: By NATTS, and also by the State. . . . 94310(1)(a), by the State of California.

William Haldeman: NATTS and the State of California. You offer degrees?

Ton Bui: Yes.

William Haldeman: Okay, let's go on. The question at hand was whether or not the vocational program needs to respond to AB 1402 regulations.

Ton Bui: My question is that now we have a different refund schedule -- one according to 190; another according to 1402. My school here falls into both categories. So, we'd like to know which category should the school follow?

William Haldeman: The answer is we have not worked that out yet. I do not have an answer for you at this point. The answer that occurs to me is not one -- is not a satisfactory one at this point. That would be that there is, I believe, a part of the legislation of 1402 that says that programs in degree-granting institutions that are vocational programs will have to comply with the 1402 statute, which would suggest that you will have to comply with the refund policy for that program. The question then becomes, and this is still at issue, do the students in the degree programs fall under a different refund policy? And we don't have an answer for that at this point.

Ton Bui: The reason I ask that question is because I'm faced with (sic) the answers in the next few days. I have my financial aid officer here today. . . . I guess some refund I have to refund within a few days -- total $600. I cannot wait to see which way I should go, because I have to write a check. Then, please consider that question and give me the answer. Because, I cannot wait.

William Haldeman: You are under whatever refund policy you were licensed under at this point. 1402 and AB 190 take effect on January 1, 1991.

Ton Bui: We are licensed under 94310.1 (?), a degree-granting institution.

William Haldeman: Yes.

Ton Bui: So, we should follow 190? That is legally?

William Haldeman: That's right.

Ton Bui: . . . please record that.

William Haldeman: 1402, in that respect, does not take effect until 1991.

Ton Bui: Thank you.

Another question I would like to bring up is why there is the difference between the refund schedule in 1402 and 190? Please, an example: in my school, we have a waiting list for the students coming in for us. So, we have to ask a student to wait for the next start. Some students we bring in, we have to reserve a computer for them, a work station for them, lectures scheduled for them. Then, they learn about 75 percent of the training, . . . drop out. According to 1402, we have to refund up to 25 percent of their tuition. This way, I think, is not fair for a school. Just like you buy a car from me. After you use . . .

you return the car to me . . . 25 percent of the purchase price.

So, we've already reserved a spot for this student. If we have to return . . . look like if you had to rent a car instead of buying a car from me. It means you'd have to pay more. So, that's what I'd like to bring up to the Commission or Sacramento . . . reconsider the refund policy of 1402.

William Haldeman: I think I understand the issue. The thing that we tried to emphasize this morning -- were you here this morning for our hearing?

Ton Bui: I was delayed.

William Haldeman: That's all right. The point that we tried to emphasize this morning is that our work at present is on regulations that implement the law. We do not have a direct line, or our work is not intended to be an input into the revision of the statute. The problems that you are raising here are problems in the statute itself. The reason there are two different standards is that there were two different pieces of legislation, authored by two different authors, trying to address two different universes of educational institutions. It was simple at the point that they were designed for just vocational or degree granting. It does not become simple when we have an institution that does both, as your institution does.

Ton Bui: Thank you for bringing up that topic. The legislator who came up with the bills, or the legislation, I think they can change. We talk with Sacramento; the subject's too confused. If you're confused, think about us. We're even more confused than you are. And, we have to interpret the law the way we feel it is. So, if we made a mistake, if we did something you think did not follow the law. So, please understand that. It will nothing . . . . Just because the law was attempting to explain the way we think it should be.

William Haldeman: One comment here. This is not a direct response to you, but you mentioned at the beginning not really quite understanding the difference between regulations and law, or statute. There may be others, as there were this morning, that don't understand that. We sympathize. The statute is the law that's already been passed. The regulations are always -- not just these, but -- are always the interpretation of that law. They leave it to some body within government, other than the Legislature, to make more specific, and provide definitions, and so on to carry the law into effect. It's the latter -- that's the regulations process -- which is just now in process. There are no regulations yet official, but the statute already is official.

Ton Bui: The reason I said I don't know the difference, up until now whatever happened with the 190 and 1402, and what other rumors I heard, looked like there's no difference between those two, according to what I heard. . . . legally . . . I don't see the difference yet, because we still don't know what we have to do.

William Haldeman: The important problem here is what, how do you respond for your vocational program? Once you're a degree-granting institution, that part ought to be fairly clear. The question is how do you treat the students in your vocational program? And that's something that we'll have to do more work on and see if we can bring some clarity to that.

Ton Bui: Please do that. There's another matter making the whole thing more complicated for my school is the student cannot -- the degree program is composed of two parts. The first part can become a vocational program itself. If they . . . another part, they can go to the degree. So, that's why it's more complicated.

William Haldeman: It's a difficult problem. We're not out of the woods on it yet.

Ton Bui: Thank you gentlemen.

William Thompson, Behavioral Science Examiners

My name is William Thompson. I am a member, and immediate past president, of the Board of Behavioral Science Examiners. One of your regulations that you are proposing impacts some of the things that we are doing.

I'm referring, under Article 2, Section 217(d). It says, "Degrees which imply preparation for licensure in, or acquisition of skills in, a direct practitioner-client therapeutic relationship such as those licensed by the State through the Board of Behavioral Science Examiners shall not be offered by means of distance learning or correspondence." We are highly supportive of this. I know that for some, particularly those that represent these institutions, this represents something that they are not particularly pleased with, I'm sure. But, in terms of the history that we have had in the six, almost seven, years that I have been on the Board, we are highly supportive of this.

We have run into numerous problems, particularly in being able -- well, first of all, to be able to evaluate coursework done to be able to make sure that the courses that they said were completed and the materials that we were provided actually did meet the requirements of the law in terms of education. Very difficult process when there was virtually no classwork. We just had a paper to go on. Being able to -- in a lot of ways, it was mixing apples and oranges: a paper that was on one subject said to sometimes fulfill the requirements for three, and four and five different areas.

The other problem has to do with what we saw in terms of people sometimes going through these institutions exceedingly quickly -- a master's degree granted in five or six months; giving a great deal of credit for life experience; those sorts of things. Which, in and of themselves, I don't think is necessarily bad for certain kinds of degree programs, and certain kinds of learning and skills to be learned.

But for the purpose of, as it singles out here, the practitioner-client therapeutic relationship, I think there're some great pitfalls there. Because we are dealing with people who are being trained to go out and engage in a kind of profession which is very sensitive to accomplishments. When there's incompetence, or people that are improperly trained, the effects can be, to say the least, disastrous on another person's life. We feel that while we at the Board certainly have no axe to grind against distant learning or correspondence institutions per se, we feel that at least for the particular training that is involved with what we are concerned about, for instance psychology, for this kind of licensure it is a educational modality that we feel just is not appropriate, has a great deal of problems attached to it in terms of our being able to evaluate the education and make sure that they are meeting the requirements of the law, and that people are sufficiently trained. So, we certainly here commend those of you who put together these regulations, and particularly this one, because we feel it's an appropriate step forward in order to ensure consumer protection in the area in which we are particularly concerned for the licensure of educational psychologists, marriage, family and child counselors, and . . . social workers. I do appreciate the opportunity to speak.

Dan Smith,
The Higher Education Corporation

My name is Dan Smith. I'm President of the Higher Education Corporation in California, a company providing administrative, educational and legal services to colleges and universities. But, from 1984 to 1988, I served as a consultant to the U.S. Department of Education. I am, also, the President Emeritus of Morristown College, a small liberal arts college in Houston, Tennessee. My company has been active in helping to explain and educate schools and colleges on AB 1402 and SB 190.

As my remarks contain several terms of art, let me define these at the outset. I'm going to speak about educational outcomes, which are defined as the measurable results of an educational effort or enterprise, results that are tied to the achievement of the mission of the organization. For those of you familiar with social program evaluation, an educational outcome is like a program objective. Objectives involve an increase or decrease of some aspect of the external problem or need toward which the organization is directed. Outcomes relate to benefits. If you're training persons to be computer operators, educational outcomes include your completion rate, the rate of placement, and job retention of your graduates.

I'll speak of educational processes -- the various functions, systems and tasks that support the educational effort, but which do not speak directly to educational outcomes. Again, for those of you familiar with social program evaluation, a goal or objective involving your educational process would be a process objective. Processes relate to mechanics. If you are training persons to be computer operators, educational processes include your governing board, recruitment activities, registration and curriculum.

Organic regulations are defined as the rules and guidelines that speak to the school as a complete entity, with the central focus being on its educational outcomes. Mechanistic regulations are rules and guidelines that speak to the school as a collection of separate functions, with the central focus being on its educational processes. Adventurism is for any organization, particularly a governmental entity like the Council, to undertake actions and activities, including the issuance of regulations, in the areas that go beyond its mission objectives or expertise. Defining public interest as it relates to private career schools, the public interest is first and foremost quality education at an affordable price, secondarily, in the sphere of ethical advertising, recruitment, financial arrangements and instruction.

The new Council on Private Postsecondary Vocational Education faces a difficult and historic task. Never before in American education has a politically appointed group of citizens been asked to set educational standards for private higher education. Heretofore, these standards have been set by privately operated national or regional accrediting agencies which have been, in turn, accredited or recognized by the U.S. Department of Education. In the past, the triad of educational regulation has consisted of the U.S. Department of Education, providing overall policy direction, independent accrediting agencies consisting of educators, providing educational direction, and State governments, who have licensed the institutions but which have traditionally relied upon the accrediting agencies to assure educational quality. If a school is accredited, the State did not really concern itself with educational quality at the school.

With the advent of SB 190 and 1402, these arrangements have been fundamentally altered. Explicit to the new laws is the concept that accrediting agencies recognized by the U.S. Department of Education are no longer reliable authorities as to the quality of education at private career schools and colleges in the State of California. The State itself will no longer rely on these educational agencies for the determination of educational quality and have (sic) to remove its recognition of these agencies and impose, in its place, a new regime of regulation whose executive point of control is the new Council. By removing its recognition from accrediting agencies, the State has also potentially removed a valuable perspective for the consideration of a private career college or school. I speak of the educators' perspective.

A school is more than the sum of its parts. Just as in music, where the merging of the first and second violins produces sound completely different than either of these sections playing separately, are the . . . of various educational functions when well managed blend to produce a special result in educational outcomes. In this sense, the college is an organic entity, and not a machine. The fundamental danger in turning over the determination of educational quality to a governmental entity like the Council is the inherent tendency of such a governmental entity to focus on the minutiae of educational operations. Should the Council come to view colleges like machines, and not like the organic entities they are, it will be inclined to tinker here and there with the structure of governing boards, the shape of curricula, and the like. To go back to my musical metaphor, changing the meter or rythym of the second violins without consideration to the rest of the orchestra, is likely to result in a . . . of noise rather than coherent music.

The basic problem we have here is that the quality of education cannot be legislated. Neither can it be produced through regulation. If that were the case, California's primary and secondary educational systems, which are heavily regulated, would be in better shape, which they are not. Quality education can only be produced by combining talented educators and eager students in an educational environment containing excellent materials, and in which educators have the freedom to quickly and creatively respond to changing needs and conditions.

I have carefully reviewed the proposed regulations. First, let me acknowledge that these regulations reflect a professional effort to translate the statutes into regulations. It was by no means an easy task, and the work they represent needs to be appreciated. However, I regret to state that the draft regulations do not, in my opinion, significantly recognize the organic nature of colleges, and instead lay out a regime of mechanistic regulation that focuses on educational processes, and not educational outcomes.

Let me begin by addressing Appendix B, proposed regulations for approving degree-granting institutions. In Section 202, on page 15 of the draft regulation, you have the first of many examples of the preoccupation with educational processes. In subsection (a), you prohibit the Chief Executive Officer from being a voting member of the board. During my tenure as President of the Center For Non-Profit Management 10 years ago, we encouraged CEOs to be voting members of the board. During my tenure as a college president, I found that being a voting member, and thus a peer, on the board of trustees was an invaluable asset in my duties. But, let me frame the issue differently. What is the evidence that such a policy is sound and always works? And how do you justify such an intrusion into the governance of schools when there are more pressing issues to be dealt with? Likewise, in subsection (b), you require that at least 20 percent of the board be public members, or that there be an advisory board. Where is the evidence for the need for such a requirement? Or the evidence that such a requirement will result in a higher quality of education?

It is appropriate to pause here to examine the authority of the Council to establish such regulations. Section 94305 of SB 190 states and provides the Council several authorities, including (e) "the adoption of rules and regulations governing the conduct of institutions under this chapter, including but not limited to minimum State standards for refund policies, advertising, enrollment agreements, and contracts, consumer information, attendance policies, and financial responsibility." In subdivision B of 94310, the Council is given authority to review and assess governance and administration. But, I believe one would be hard-pressed to show that either of these sections, separately or together, provide an educational justification for the Council to set rules for who is to be a voting member of a board and what advice they must receive. This is an example of what I describe as adventurism, the undertaking of activities beyond the expertise of the Council. Separate from the question of educational appropriateness is the issue of resource appropriateness. Given the limited budget of the Council, do you really want your inspectors to spend valuable time asking questions and seeking documentary verification for concerns such as these. You're apt to drown your inspectors in a pool of paper.

In Section 205, subsection (a), you prescribe mandatory ratios of instructors to students. What is the evidence that these particular ratios produce educational quality while others do not? I submit to you that these numbers are inherently arbitrary. Yet, they infer that your inspectors will need to verify that they have been met. Is this how you want your State inspectors to be spending their time?

In Section 207, subsection (a), please note that AB 1401 contains provisions allowing the student receivables to be counted in current assets. This section will need to be revised as soon as AB 1401 becomes law.

In Section 210, subsection (g), please note that the refund policy prescribed for non-WASC-accredited degree-granting institutions, much like the prescriptions contained in AB 1402 for private career schools offering certificates or diplomas -- this section constitutes a radical departure from the traditional American educational practice in which a student assumes responsibility for the payment of a full course after 21 - 30 days of enrollment. Under current practice at most of these institutions, if a student withdraws after the third week of classes, he or she gets no refund. But, with this new regulation, if a student withdraws during the fourth week of a six week course, the student gets 75 percent of the tuition back. For a four unit course costing $250 per unit, or $1,000, the student is able to recover $750. Two things should be noted about this. One, we create a double standard here, implied in the statute and not necessarily the regulation. Secondly, the loss of revenue from Section 210 can threaten the financial stability of many private, unaccredited degree-granting institutions in the State.

An interesting question will arise when a student goes to a private institution like USC or Occidental, which happen to be accredited and therefore not subject to these provisions of the law, where after 21 or 30 days, they lose 100 percent of their tuition. Yet, if they go down the street to an unaccredited institution, they have far more expensive and powerful refund rights. An interesting dichotomy in policy, which this particular provision only stands to underscore.

In Section 210, subsection (b), I note that this section allows degree-granting institutions to grant admission based on a high school diploma or GED. Yet, for private career schools, under Section 94319.2(a) of AB 1402, this ability is preempted, and an admissions test is required. As of the May 24th version of AB 1401, it must be an ability-to-be-trained test. Thus, on one hand, we have another double standard and policy where, on one hand, the degree-granting institutions, and other institutions not subject to AB 1402, are able to utilize a diploma as evidence of ability to benefit, and yet institutions subject to AB 1402 are prohibited from using the high school diploma as such a determinant.

It is ironic, therefore, in the extreme that the Legislature voted to impose a set of regulations on private career schools that include the provision that prohibits these schools from using a high school diploma as a sole indicator of ability to benefit, or to be trained, while the same Legislature spends billions of dollars annually on education directed toward producing such diplomas. I recognize this is a statutory, and not regulatory, matter, but I thought it was appropriate to mention it here.

William Haldeman: Is that provision that you're quoting here in AB 1401, did you say?

Dan Smith: AB 1402 is the legislation that prohibits private career schools.

William Haldeman: From using high school diplomas?

Dan Smith: From relying on them solely as the -- for ability to benefit. It imposes, in fact, explicitly the requirement that they test students for their ability to benefit.

William Haldeman: I get it.

Dan Smith: I wish I had time to comment on all of the other sections of Appendix B, but let me turn to Appendix C, the proposed regulations for non-degree-granting private postsecondary vocational educational institutions. Because Appendix C is based on AB 1402 and because the law happens to be rather prescriptive in its educational requirements, it should come as no surprise that one finds that it contains fewer proposed regulations than Appendix B. The brevity of this section could reflect as well the fact that AB 1402 has been substantially amended by AB 1401, and that this bill has not yet been enacted. However, there are useful things to be said about Appendix C.

First of all, if AB 1401 is enacted, it will require regulations to help implement it, particularly Article 2.5. For instance, the new ability-to-be-trained requirement will require regulatory explanation. Therefore, I would request that a second hearing be held once the regulations relevant to Article 2.5 as amended have been drafted.

Secondly, it would be useful for CPEC and PPED to immediately address the critical issue of the retroactivity of AB 1402 and AB 1401. It would be an appropriate regulatory topic. The suspension of enforcement of AB 1402, and the advent of AB 1401, have created two different retroactivity issues: one, when will the changes in AB 1401 take effect; and two, what is the retroactive enforcement status of the provisions of AB 1402, whose enforcement has been suspended but which are not changed by AB 1401. I'm happy to say that the first issue appears to be resolved. The Higher Education Corporation was able to get the Office of the Legislative Counsel to commit to a change in the digest of proceedings 1401. On page 7 of the May 24th version of the bill, in the digest, the second to the last paragraph begins, "The bill will specify that the amendments made by the bill shall apply as of January 1, 1990." In other words, the changes would have been retroactive to the first of the year.

After being unable to find where in the law this retroactivity was actually spelled out, we called and asked for clarification. The response of Counsel's office this week acknowledged that there was an error, that the amendment will apply as of the operative date of the law -- which is 30 days after it is signed by the Governor -- and that a future version of the bill will note this correction. Had this interpretation of the law stood and been implemented by PPED, the operational and legal consequences for private career schools would have been very severe, as it would have meant the schools would have needed to have been in compliance with these new amendments since January 1st. This would have been, of course, impossible, as they had not yet been drafted.

The second issue is yet to be resolved. AB 1401, Section 44, begins to resolve the issue but stops short. Section 44's second sentence makes clear that the intent of any legal action taken against a school based on three sections of the law, by anyone whatsoever, becomes moot if that action has not yet been made filed by a court by the operative date of the law. The three sections cover financial requirements (that's section 94316.6), prior approval of certain financial transactions, such as a salary increase or advance of $20,000 or more (that's section 94316.15), and the ability-to-benefit test requirements (found in 94319.2). Unfortunately, by implication, all other sections of the law for which a school faces legal action don't become moot as of the operative date of the law. A more fair and reasonable version of Section 44 would have made moot all Article 2.5 legal action. Why just these three sections is a mystery.

The issue could be resolved by regulation if the superintendent or the Council used their powers to state that they won't enforce AB 1402 and AB 1401 as of the operative date of AB 1401, which is likely to be in early August. If this issue is not resolved in the manner as I suggest, one could easily predict that retroactive enforcement back to January 1, 1990, of provisions of AB 1402 that were suspended but not changed, will spark angry lawsuits by private career schools against the State that will grip the superintendent and the Council in needless, time-consuming and expensive litigation for years to come. The Council needs to get off on a better foot than that. We need a uniform enforcement date, and you can help bring it about.

Lastly, despite its extensive specificity, there are some gaps in AB 1402 that ought to be resolved in regulation. In submitting a mandatory completion rate, the law created by AB 1402 does not address the issue of a false or fraudulent student. Such a student registers for classes with the express purpose of receiving loan money, and then disappears after acquiring it. As the law is currently written, such an unscrupulous student can contribute to a student being forced to drop the course due to a poor completion rate. Such students should be excluded from the completion rate calculations. I do not believe it was the intent of the Legislature to have such students counted in the completion calculations. It is recommended that a regulation along the following lines be adopted: "An institution may exclude from the completion rate calculations false students. A false student means a student who failed to return or make specific arrangements for repayment of unused financial aid or tuition and fee amounts already owed the institution within 30 days of his or her withdrawal. In order for an institution to certify a student as false, the student must (a) fail to attend classes for a three-week period and fail to provide a written explanation for the failure to attend, and (b) be the recipient of financial aid for educational supplies and materials within 30 calendar days of the first day of the three-week period of nonattendance of class. The institution . . . sure that you, perhaps, have heard about this problem before. There are others here who are able to speak to the existence of this problem, and it's one that I believe could be addressed by regulation.

This completes my testimony. Thank you for your attention.

William Haldeman: Thank you, Dan. We will get a copy of that I assume?

Dan Smith: Yes.

William Haldeman: You've raised a number of good issues. The false student is, frankly, one that is new to me. But, one we'll take a look at. Some of the issues you've raised are clearly issues of statute and not regulation. We appreciate the material, and we'll certainly take a look at these things.

MS (?): Excuse me, of the schools that you know of in California, are there some that require or request written statements of reasons for absence for say that three-week period?

Dan Smith: Some institutions do, but the problem that I'm trying to put my finger on is that whether or not they provide such information right now, the student drops, he's still considered for the completion calculation purposes. I think an adjustment in this case would be appropriate.

William Haldeman: Yes, I was wondering about the experience that you know of with solving that problem? With determining whether a student is or isn't such a fraudulent?

Dan Smith: Bonnie Lee, who I believe you heard from earlier, has had experience with this problem.

(BL?): . . . We had a student that came in. She called back after I gave an interview at Financial Aid, requested an SLS-loan to the bank itself. They started the application, told her she was eligible. She came in my office demanding an SLS-loan. I had never ever certified an SLS-loan, because we try to . . . from it, and she said, "I have the need; I have the right to it; I want it." So, I had to certify it. She turned around, went to the student lounge, and talked to all of her peers, and the . . . within an hour, I had 22 students in my office demanding SLS loans. Of those 22 students that I had to certify, I have three in school left. As soon as they got their $4,000, they left.

This happens constantly. It's been a real cause of mine. It's why I got involved so much with 1402 and SB 190. There's nothing in the regulations to protect the schools from this. Your junior colleges are your biggest offenders. Those kids can walk away with $9,000 the first semester and never finish.

William Haldeman: Good to be alerted to that, and to the extent that we can address it in the regulations, we'll certainly give it a try.

Thank you again. Is there anyone else that would like to address this panel? If not, then, I want to thank you.

MY NAME IS TED DALTON, PRESIDENT OF NEWPORT UNIVERSITY AND ACTING PRESIDENT OF THE CALIFORNIA ASSOCIATION OF STATE APPROVED COLLEGES AND UNIVERSITIES.

IT WILL COME AS NO SURPRISE TO THE AUTHORS OF THESE PROPOSED REGULATIONS, WRITTEN TO IMPLEMENT THE PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATIONAL REFORM ACT OF 1989, THAT THEY ARE NOT ACCEPTABLE.

IF IT IS THE LEGISLATURES INTENT TO ELIMINATE PRIVATE POSTSECONDARY EDUCATION IN CALIFORNIA, THEN THESE REGULATIONS WILL PROVIDE THE MEANS WHEREBY THIS CAN BE ACCOMPLISHED.

HOWEVER, WE BELIEVE MOST OF THE LEGISLATURE RECOGNIZES THE IMPORTANCE OF THE PRIVATE EDUCATION SECTOR AND THAT THE INTENT IS TO ASSURE THE FLOURISHING OF THIS SECTOR, WHILE AT THE SAME TIME ASSURING PROTECTION TO THE PUBLIC AGAINST THE SO-CALLED DIPLOMA MILLS OF CALIFORNIA. GREAT LEGISLATIVE CONCERNS WAS GENERATED BY CHARACTERIZING CALIFORNIA AS THE 'DIPLOMA MILL CAPITOL OF THE WORLD. I HAVE YET TO HEAR ANY OF THE STAFF OF THE CALIFORNIA POSTSECONDARY EDUCATION COMMISSION OR THOSE WHO SUCCESSFULLY EXEMPTED THEMSELVES FROM THE LAW, PUBLICLY NAME A CALIFORNIA DIPLOMA MILL. NOR FOR THAT MATTER, DID THE BOOK "DIPLOMA MILLS" BY STEWART, PLACED IN THE HANDS OF EVERY LEGISLATURE, NAME AN OPERATING CALIFORNIA DIPLOMA MILL.

THESE REGULATIONS FAIL TO RECOGNIZE THE DIVERSITY FOUND IN THIS PRIVATE EDUCATION SECTOR. THIS DIVERSITY IS NOT ONLY EVIDENT IN THE VARIETY AND/OR COMBINATIONS OF EDUCATIONAL DELIVERY SYSTEMS, BUT IN ORGANIZATION AND ADMINISTRATION.

THOSE WHO HAVE FOLLOWED THE STUDIES AND DEBATES OF THE BROOKINGS INSTITUTE WILL HAVE SEEN THAT ENTREPRENEURISM IN EDUCATION HAS BEEN DEMONSTRATED TO BE THE MOST EFFECTIVE MEANS FOR PROVIDING EDUCATION. THE PROPOSED REGULATIONS ARE NOT ONLY PUNITIVE, BUT SEVERELY RESTRICT THE ABILITY OF THE PRIVATE EDUCATION SECTOR TO MEET THE EVERCHANGING EDUCATIONAL NEEDS OF OUR SOCIETY.

LAST WEEK I RECEIVED A CALL FROM A STAFF MEMBER OF THE ASSEMBLY EDUCATION SUB-COMMITTEE, WHO MADE THE STATEMENT "THE PRIOR EDUCATION ACT WAS BANKRUPT AND FAILED TO PROVIDE NECESSARY OVERSIGHT OF THE PRIVATE SECTOR." WE ALL KNOW THAT THIS IS UNTRUE AND THAT IT WAS UNEVEN APPLICATION OF THE LAW, AND NOT THE LAW, THAT FAILED.

REGULATIONS NEED TO BE DEVISED AND IMPLEMENTED THAT ARE CONCERNED WITH CURRICULUM THAT MEETS THE CHALLENGE AND NEEDS OF INDUSTRY AND PROFESSIONS, NOT A CARBON COPY OF THAT OFFERED THROUGH TRADITIONAL SCHOOLS HANDICAPPED BY A LARGE BUREAUCRACY AND A SELF-SERVING ACCREDITING ASSOCIATION; REGULATIONS THAT ARE CONCERNED WITH THE QUALITY OF A FACULTY, RATHER THAN WHETHER THEY ARE FULL-TIME, ADJUNCT, OR PART-TIME; THAT LEARNING OUTCOMES ARE DEMONSTRATED SO THAT LEVELS OF ACHIEVEMENT CAN BE DETERMINED WITHOUT CONCERN WHETHER THE LEARNING ACTIVITY TOOK PLACE OVER MONTHS, DAYS, OR OVER HOURS. IN OTHERWORDS, WHERE BOTH FACULTY AND STUDENT ACHIEVEMENT CAN BE DETERMINED.

THESE PROPOSED REGULATIONS REFLECT WHAT THOSE, WITHOUT PRACTICAL EXPERIENCE OUT IN THE TRENCHES OF PROPRIETARY EDUCATION, THOSE WHO DO NOT HAVE TO CONCERN THEMSELVES WITH PROFITABLY (IN ORDER TO SURVIVE), THOSE WHO ARE MORE CONCERNED WITH FACULTY AND ADMINISTRATIVE NEEDS AND NOT STUDENT NEEDS, WOULD CREATE.

SELECT STAFF OF CPEC, WASC, AND OTHERS HAVE ACHIEVED THEIR GOAL OF MOVING PRIVATE POSTSECONDARY EDUCATION AWAY FROM THE DEPARTMENT OF EDUCATION, AND FOR ATTAINING EXEMPTION FROM CALIFORNIA LAW. NOW IS NOT THE TIME TO RAISE THE GAUNTLET, BUT TO WORK REASONABLY WITH KNOWLEDGEABLE AND SINCERE INDIVIDUALS IN THE PRIVATE SECTOR. IN THIS WAY, REGULATIONS THAT MEET THE NEEDS OF SERIOUS INSTITUTIONS AND OF PUBLIC CONCERNS CAN BE ADDRESSED.

THANK YOU.

PACIFICA
GRADUATE INSTITUTE
formerly the Human Relations Institute

June 21, 1990

Re: Comments to the Private Postsecondary Education Commission
Regarding the Regulations Governing S.B. 190

Mr/Ms. Chairperson, Members of the Commission, Ladies and Gentleman,

My name is Dr. Gary R. Linker, Vice-President of Pacifica Graduate Institute, Santa Barbara. I am pleased to have the opportunity to speak to you today regarding implementation of S.B. 190, the Private Postsecondary and Vocational Education Reform Act of 1989. Realizing there are many people who want to address you today, I will make my comments short and to the point.

For the past ten years, Pacifica Graduate Institute has enjoyed the status as a degree granting post secondary institution offering a masters and recently a doctoral degree program in Counseling and Clinical Psychology. I have witnessed the attempts of the state to establish meaningful criteria to assess the capability of schools like ours to provide quality education to the students who attend our schools. I have seen the success and shortcomings that come in trying to implement vague and general criteria of performance both in serving on a review team and having such teams visit our institution.

Having had this opportunity, I believe I am in a fair position to be able to say, that the work your committee has done to grapple with the difficult task of determining fair and equitable standards for review of such schools is simply put, outstanding.

For the first time to my memory, a review body has taken the "bull by the horns" and attempted to define several controversial and elusive aspects of school life. For instance, I appreciate the commission's attempt to try and determine what is an acceptable criteria for defining full time faculty, the faculty-student ratios and the composition and responsibility of governing boards. While I am certain there is work yet to be done in fine tuning language of such regulations, I sincerely hope that the new commission will use your work as their guide as they adopt the regulations that will accompany the new statutes.

I am confident that the commission made use of many existing sources of information as their guide in developing the draft regulations that we are commenting on today. I would like to focus my brief remarks on the fact that these criteria bear a very close resemblance to those of the Western Association of Schools and Colleges (WASC). While in some places this commission has gone into greater detail in defining formulas and in other places the association has, there are notable similarities in what each of these respected bodies seeks in terms of operationalizing these standards.

Given this reality, it seems appropriate and justified that mention be made in the regulations to this standard of excellence. Thus, I would like to suggest that the words. . ."commensurate to accredited schools. . ." be added where appropriate in the language of standards. For instance, your commission provides clear guidelines of what should be the role of the governing board of state approved schools. These expectations are quite similar to those that WASC outlines in their handbook. Similar language appears in both documents relative to the role of faculty in the academic life of the school, qualifications of faculty members, the necessity for there being enough full time equivalent faculty and the like. While these expectations are from appropriate and useful standards, it is important that the State of California announce to its schools and the country that such standards are equivalent to those required of accredited schools in our region.

By utilizing such language, the state would itself be following the example they are asking of schools themselves; that of full disclosure. I welcome the stipulations that the commission is proposing relative to the requirement that affected schools fully disclose to the public the nature of its operation; including program costs, policies about enrollment and student services it will offer. By including language that these standards are commensurate to those of accredited schools, the commission would also be informing the public that the highest standards of excellence are expected of California state approved schools whether they seek accreditation or not.

I want to express my appreciation to the commission and Mr. Haldeman in particular for his hard work. It has been a refreshing change to call Sacramento and find that my questions and points of clarification are thoughtfully received. I want to thank him and the commission for its openness and expressed desire to consider all input as these regulations are being adopted. I hope that serious consideration will be given to my suggestion that the additional language mentioned above be added to the regulations that are currently being reviewed.

Respectfully submitted,

Gary R. Link

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Vice-President
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Paul R. McGuirk
President

June 21, 1990

TESTIMONY OF
DEVRY/KELLER GRADUATE SCHOOL OF MANAGEMENT INC.

State of California
Proposed Regulations for Approving Degree-Granting Institutions
Education Code, Section 94310

Thank you for this opportunity to comment on the draft regulations to implement SB190, specifically, the Proposed Regulations for Approving Degree-Granting Institutions under Education Code 94310.

We commend the Commission for the process utilized to develop the proposed regulations which include representatives of private postsecondary and vocational schools. We would like to convey our overall support for the proposed rules and share our concern over specific sections.

We would like to begin by reiterating a previously submitted comment. Section 94303 of SB190 provides the following exemption:

> Articles...of this chapter...shall not apply to institutions which are accredited by the Western Association of Schools and Colleges and... exclusively confer degrees upon the completion of a course of study of two or more years.

While we recognize the intent of the Commission's decision to exempt degree-granting institutions regionally accredited by the Western Association, we question why this same exemption was not granted to other regionally accredited degree-granting institutions. The regional accrediting associations are recognized by the U.S. Department of Education and meet the standards of the Council on Postsecondary Accreditation. As you know, COPA's formal criteria for recognition requires that the accrediting bodies it recognizes meet the same basic standards for ensuring educational quality. We urge the Commission to consider this information, and we respectfully request that the exemptions provided to WASC accredited institutions be extended to other regionally accredited degree-granting institutions as well.

SECTION 205 FACULTY INCLUDING THEIR QUALIFICATIONS, part (a) (1), STUDENT-FACULTY RATIOS.

We concur with the Commission that institutions should be required to employ faculty in sufficient numbers to deliver quality instruction. However, we strongly urge that the language setting upper limits of 25:1 for student-faculty ratios in classroom instruction be eliminated. Instead, we urge that the appropriateness of institutionally determined student-faculty ratios be judged by student outcomes such as achievement, persistence, and career placement. We suggest a provision allowing schools to present evidence of the effectiveness of their own standards for student-faculty classroom ratios.

Our recommendations are based on the following observations and evidence:

1. Synthesis of the results of many research studies concerning the relationship between student achievement and class size indicates negligible differences in achievement for class sizes greater than 10-15 students. These studies may be summarized by the finding that they show "little difference in class size effects for the broad range of classes between 20 and 40."

2. Research conducted by DeVry Institutes between 1981-1985 shows no relationship between class size and student outcomes such as achievement, persistence, or career entry after graduation.

3. By setting an upper limit to student-faculty ratios, the proposal imposes unnecessary rigidity on class formation and drives up costs to the student without delivering additional educational effectiveness or benefits. Most colleges and universities, as well as private post-secondary degree-granting institutions, form a variety of larger and smaller classes depending on subject, student level, and instructional methods.

4. The proposal to set upper limits to student-faculty ratios draws upon "industry standards" that are too restrictive for the technology and technology-based business programs offered by DeVry. The upper-limit provision drawn from, for example, the Accrediting Bureau of Health Education schools may be appropriate for the needs of specialized medical and dental training or clinical instruction, but it is not appropriate in more traditional lecture and laboratory environments such as those at DeVry.

   The success of DeVry's programs derives from effective organization, staffing, and support to ensure sufficient space, proper equipment, well-designed instructional materials, and close coordination between lectures and labs.

5. Student faculty-ratios within many institutions are largely determined by their mission, and institutions should be judged by the achievement of their mission.

> According to the Chronicle of Higher Education Almanac of September 6, 1989, the student-faculty ratio of private institutions in California is 54:1. This would suggest even larger classroom ratios since faculty in these institutions engage in significant research activities that are balanced by reduced teaching loads.

Private career-education institutions such as DeVry, with teaching as their primary mission, assign faculty almost entirely to instructional duties. Through appropriate curricula, effective teaching, and extensive support services, DeVry produces successful graduates, over 90% of whom find education-related positions within six months of graduation. And these placements are into positions which lead to successful careers that include an average of 25-35% in management and 60-70% in senior technical positions after 5 years.

Given these considerations, our recommendation is that the proposed language on student-faculty ratios be redrafted to permit greater flexibility and to emphasize that the appropriateness of student-faculty ratios be judged by the effectiveness of institutions in achieving their mission.

SECTION 205 FACULTY INCLUDING THEIR QUALIFICATIONS, part (c), FACULTY DEGREES

We applaud the Commission's attempt to ensure academic quality by requiring faculty to have the requisite knowledge and skills to deliver quality academic programs. We do not debate the intent of this section, or the requirement for faculty to have graduate academic training and degrees.

In selecting faculty, DeVry faces special challenges that arise from the nature of its applications-oriented programs and from its educational mission. Our Electronics Engineering Technology program teaches applied design skills in current technology to students who enter their careers as engineering technologists, not as engineers. Our Electronics Technician program seeks to produce graduates capable of effective maintenance and servicing of current electronics equipment. Our Computer Information Systems and Telecommunciations Management programs are oriented toward problem-solving applications software and computer or telecommunications systems rather than the theoretical and mathematical aspects of computer science or telecommunications hardware design.

Educational goals play a central role in setting appropriate criteria for faculty selection. The particular competencies an institution seeks in potential faculty vary according to the institution's character and purposes. Therefore, institutions preparing students to enter occupations will usually be as interested in selecting faculty on the basis of work experience and occupational proficiency as on the basis of advanced degrees.

We recommend that the draft standard be revised to require that 75% of faculty in a particular program hold terminal degrees at a level higher than the degree offered, not the highest degree in the academic discipline, which may or may not be consistent with the institution's stated purposes. In our opinion, the appropriate terminal degree for faculty teaching in applied programs such as those offered by DeVry is the Master's degree.

SECTION 207 FINANCIAL RESOURCES

We recommend that this section be modified to include the following:

The application of generally accepted accounting principles to the issues of amortization of goodwill and intangible assets, taxes on income, pension plan obligations and post-retirement benefits other than pensions may result in an institutional financial statement which does not meet the criteria of section 94311.5(b), even though the institution is financially responsible and does have sufficient assets to fulfill its educational mission.

In these instances, the institution must be allowed to present to the Commission additional information to demonstrate that it is financially responsible. This information shall include the institution's most recent financial audit, conducted by a licensed certified public accountant, with a clean, unqualified opinion. The institution may also submit other information such as outside credit information that it believes will demonstrate that it is financially responsible.

Having presented such information to the Commission, the Commission shall then determine if the institution is financially responsible under section 94311.5(b).

SECTION 210 TUITION, FEES AND REFUND SCHEDULE, part (g)(2), REFUND POLICY

DeVry Institute of Technology currently uses the following refund policy:

A $25 application fee is refundable if the applicant cancels the transaction within 5 business days. A $75 tuition deposit is refundable if the applicant's request is received in writing prior to the first day of classes. After classes begin, students who withdraw receive refunds as follows:

Withdrawal	Refund
within 1st week	90% of tuition less $150 administrative fee
within week 2-4	75% of tuition less $150 administrative fee
within week 5-8	50% of tuition less $150 administrative fee
after week 8 (which is 50% of the term)	no refund

A review of the refund policies of private and public institutions in California indicates that many California institutions that would not be required to comply with this policy due to the WASC exemption do not refund any tuition after the 5th week, and in some cases none after the 3rd week. The refund percentages used by the reviewed institutions are also less favorable in the majority of withdrawal weeks.

We are in agreement with the overall policy; however, we recommend that the proposed refund policy outlined be modified in two areas: 1) Withdrawals during the first 50% of scheduled classes should be refunded at 50%, not the 60% figure shown, as 60% implies that withdrawal occurred during the first 40% of the term; and 2) institutions should be allowed to charge an administrative fee, not to exceed $150, to cover the cost of processing withdrawals.

SECTION 217 DEGREES OFFERED, part (b), DISTRIBUTION OF GENERAL EDUCATION REQUIREMENTS BY FIELD

We agree with the Commission's assessment that one-fourth of the requirements for associate and bachelor's degree programs should be in general education.

DeVry programs are structured to incorporate general education which is relevant to the particular program of study. We believe this more effectively broadens the student's educational perspectives, which is the essential purpose of general education.

The fields specified by the Commission in this section do not encompass traditional broad areas within which general education is construed, namely:

Communication
Quantitative Analysis
Humanities
Social Sciences
Natural Sciences

We believe that an appropriate and flexible system of general education distribution requirements ensures that students experience coherence in undergraduate education. Within some categories, specific choices should be left to the institution and its students, so that the general education offered can be specifically integrated with the program of study. We therefore recommend that the required general education distribution be modified to encompass the more traditional broad areas which allow institutions the freedom to make specific choices and avoid narrowing the scope of general education.

In closing, we encourage the Board to continue the practice of school participation in the regulatory process.

Thank you.

Sincerely,

Paul R McGuirk

Paul R. McGuirk
President
DeVry Institute of Technology
City of Industry, California

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TESTIMONY GIVEN TO CALIFORNIA POST-SECONDARY EDUCATION COMMISSION BY LARRY McHARG

June 21, 1990

My name is Larry McHarg, and I am President of Real Estate Trainers, located in Santa Ana. I am also Administrator for some of the CENTURY 21 Real Estate Schools. I want to speak concerning the proposed regulations for non-degree granting private post-secondary vocational educational institutions, Appendix C. I have two minor clerical points to ask a question about and two major objections to make. The first minor point concerns Regulation 1130(a)(4) and (5). (a) says "each instructor shall possess at least one of the following," and then there is a list of five items. At the end of (4) is the word "and." Should that be an "or" or does each instructor have to possess one of the four items and also item 5? Item (5) says "possession of a license to teach issued by an appropriate state licencing board or federal agency . . . " If every instructor must possess this license, what would be the appropriate state licensing board or federal agency for a real estate teacher?

The second minor point deals with Regulation 1140(a). It says "the institution shall maintain a file for each student . . ." I would assume that in this technological age, such a file could be either written or on a computer. However, I have found that when I assume things, I get in trouble. I would suggest that the wording be changed to "the institution shall maintain a written or computer file for each student . . ."

My first major objection deals with Regulation 1140(b). According to this regulation, each institution must keep a copy of its student files for a minimum of 10 years. This seems to me to be excessively long. According to AB1402, Section 94319.5(a), the law requires each institution to maintain records for not less than five years. According to the California Statute of Limitations, any breach of a written contract must be pursued in court within four years. The Internal Revenue Service requires taxpayers to keep records for only seven years. I see no reason for the new Council for Private Post-secondary and Vocational Education to require schools to maintain records for such a long time. I would not anticipate that the new Council would assume that it is more powerful than the Internal Revenue Service. I would request that this regulation be changed to conform with AB1402 and require that records be kept for five years.

My second major objection deals with Regulation 1200(j) and Regulation 1240(b). According to these two paragraphs, the application for approval of a school or a branch must include a description of the physical facilities. Then, after the application is filed, the Council has up to 180 days to decide whether or not the school will be approved.

Most of the courses which we offer by live instruction are either two day classes or a 45-hour class which can be completed in two weeks. For these classes sometimes we use classrooms that are permanently leased, and sometimes we use meeting rooms in hotels. We often schedule these classes anywhere from two weeks to three months in advance. If this six-month application approval applies to our leased classrooms and we decided to lease a classroom in a new location, it would mean that we would have to lease the classroom, have it standing empty and pay rent for six months before we found out whether or not we could use that classroom. No landlord would hold a space for a prospective tenant for six months not knowing whether or not the space would be useable by the tenant and, thus, leased. For us to pay rent for six months, and be unable to use the space would be fiscally irresponsible.

On the other hand, if this approval of the physical facilities applies to meeting rooms in hotels, most hotels will not commit their facilities six months in advance.

In summary, it seems to me that 180 days is far too long a period of time to process the approval of a branch location. I can understand that it may take a lengthy time to approve a new school, but I would recommend that the approval time for branch locations be limited to 30 days.

Thank you very much for your consideration.

DRAFT

TESTIMONY OF DAN J. SMITH BEFORE THE CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

June 21, 1990

I. Introduction

Thank you for this opportunity to comment on the proposed regulations to implement AB 1402 and SB 190. Let met take a moment to provide a brief biography and to lay out my approach to regulation.

My name is Dan J. Smith. I am President of The Higher Education Corporation, a California company providing administrative, educational, and legal services to colleges and universities. I am a native of Los Angeles, and hold a Bachelor of Arts from the University of Southern California; a Master of Arts in Urban Studies from Occidental College, and I have done post-graduate work in executive management at Claremont Graduate School in Claremont, California.

After serving as Assistant Vice President and Manager (statewide) for Urban and Community Services for First Interstate Bank of California, I co-founded and served as the first President of the Southern California Center for Nonprofit Management. By gubernatorial appointment, I served as a commissioner with the California State Economic Development Commission from 1979 to 1983.

In 1981 and 1982 I served as Senior Policy Adviser to the President of the United States in the White House Office of Policy Development. I served as Secretary to the Cabinet Council on Commerce and Trade, where I assisted in the development of Presidential-level policies, including those involving enterprise zones and the U.S. Merchant Marine. I was also the White House representative to the April 1981 talks in Tokyo with the Government of Japan on U.S.-Japanese automobile trade. I am the principal author of Executive Order 12320, concerning the Federal role in higher education.

From 1984 to 1988, I served as a consultant to the U.S. Department of Education. I also served as President of Morristown College for a year and a half, where I helped the school maintain its accreditation and its financial viability. In 1987 I was named President Emeritus of the College.

As President of the Higher Education Corporation, I have been active in providing financial, administrative, and educational services to both growing and at-risk institutions. I am the author of several publications involving AB 1402 and SB 190, including the AB 1402/SB 190 Consolidated Compliance Digest and A Consolidated Checklist for AB 1402 and SB 190.

II. Definitions

As my remarks contain several terms of art, I will define these at the outset:

-- Educational outcomes - the measurable results of an educational effort or enterprise; results that are tied to the achievement of the mission of the organization. For those of you who are familiar with social program evaluation, an educational outcome is like a program objective. Outcomes involve the increase or decrease of some aspect of the external problem or need toward which the organization is directed. Outcomes relate to benefits. If you are training persons to be computer operators, educational outcomes include your completion rate and the rate of placement and job retention rates of your graduates.

-- Educational processes - the various functions, systems, and tasks that support the educational effort, but which do not directly speak to educational outcomes. For those of you who are familiar with social program evaluation, a goal or objective involving an educational process would be a process objective. Processes relate to mechanics. If you are training person to be computer operators, educational processes include your governing board, recruitment activities, registration, and curriculum.

-- Organic regulation - rules and guidelines that speak to the school as a complete entity, with the central focus being on its educational outcomes.

-- Mechanistic regulation - rules and guidelines that speak to the school as a collection of separate functions, with the central focus being on its educational processes.

-- Adventurism - for any organization, particularly a government entity like the Council, to undertake actions and activities, including the issuance of regulations, in areas that go beyond it mission, objectives, or expertise.

-- Public interest - As it relates to private career school, the public interest is first and foremost, quality education at an affordable price. Secondly, it is fair and ethical advertising, recruitment, financial arrangements, and instruction.

III. Objectives of Regulation

The new Council of Private Postsecondary Vocational Education faces a difficult and historic task. Never before in American educational history has a politically-appointed group of citizens been asked to set educational standards for private higher education institutions.

Heretofore, these standards have been set by privately-operated national or regional accrediting agencies, which have in turn been accredited or recognized by the U.S. Department of Education. In the past, the triad of educational regulation has consisted of the U.S. Department of Education, providing overall policy direction, independent accrediting agencies consisting of educators providing educational direction, and state governments, who have licensed the institutions, but have traditionally relied upon the accrediting agencies to assure educational quality. If a school was accredited, the State did not really concern itself with the educational quality at the school.

With the advent of SB 190 and AB 1402, these arrangement has been fundamentally altered. Explicit to the new laws in the concept that accrediting agencies recognized by the U.S. Department of Education are no longer reliable authorities as to the quality of education at private career colleges in California. The State of California will no longer rely on these educational agencies for the determination of educational quality and has chosen to remove its recognition of these agencies and impose in its place a new regime of regulation, whose executive point of control is the new Council.

In removing its recognition from accrediting agencies the State has also potentially removed a valuable perspective for the consideration of a private career school or college. I speak of the educator's perspective.

A school is more than the some of its parts. Just as in music, where the merging of the first and second violins produces a sound completely different than either of these sections playing separately, at a college, the various educational functions, when well managed, blend to produce a special result, an educational outcome. In this sense, a college is a organic entity and not a machine.

The fundamental danger in turning over the determination of educational quality to a governmental entity like the Council is that the inherent tendency of such a governmental agency to focus on the minutiae of educational operations. Should the Council come to view colleges like machines and not like the organic entities they are, it will be inclined to tinker here and there with the structure of governing boards, the shape of curricula and the like.

To go back to my musical metaphor, changing the meter or rhythm of the second violins, without consideration to the rest of the orchestra, is likely to result in a cacophony of noise rather than coherent music.

The basic problem we have here is that quality education cannot be legislated, neither can it be produced through regulation. If that were the case, California primary and secondary education systems, which are heavily regulated, would be in better shape.

Quality education can only be produced by combining talented educators and eager students in an educational environment containing excellent materials, and in which educators have the freedom to quickly and creatively respond to changing needs and conditions.

IV. Comments

I have carefully reviewed the proposed regulations. First, let my acknowledge that these regulations reflect a professional effort to translate the statutes into regulations. It was by no means an easy task, and the work they represent needs to be appreciated. However, I regret to state that the draft regulations do not, in my opinion, sufficiently recognize the organic nature of colleges and instead lay out a regime of mechanistic regulation that focus on educational processes and not educational outcomes. Let me begin by Addressing Appendix B, proposed regulations for approving degree-granting institutions.

Appendix B

In Section 202, on page 15 of the draft regulation, you have the first of many examples of a preoccupation with educational processes.

-- In subsection (a), you prohibit the chief executive officer from being a voting member of the board. During my tenure as president of the Center for Nonprofit Management ten years ago, we encouraged ceos to be voting members of the board. During my tenure as a college president, I found being a voting member, and thus peer, on the Board of Trustees an invaluable asset in my duties.

But let me frame the issue differently; where is the evidence that such a policy is sound and always works. And how do you justify such an intrusion into the governance of schools when there are more pressing issues to be dealt with?

-- Likewise in subsection (b), you require that at least 20 percent of the board be public members or that there be an advisory board; where is the evidence either for the need for such a requirement or the evidence that such a requirement will result in a higher quality of education?

It is appropriate to pause here and exam the authority of the Council to establish such regulations. Section 94305 of SB 190 states the Council several authorities, including:

> (d) The adoption of rules and regulations governing the conduct of institutions under this chapter, including, but not limited to, minimum state standards for refund policies, advertising, enrollment agreements and contracts, consumer information, attendance policies, and financial responsibility.

In subdivision (b) of 94310, the Council is given authority to review and assess "Governance and administration," but I believe one would be hard press to show that either these sections separately or together provide an educational justification for the Council to set rules for who is to be a voting member of a board and what advice they must receive. This is an example of what I describe as adventurism, the undertaking of activities beyond the expertise of the Council.

Separate from the question of educational appropriateness is the issue of resource appropriateness. Given the limited budget of the Council, do you really want your inspectors to spend valuable time asking questions and seeking documentary verification for concerns such as these? You are apt to drown your inspectors in pool of paper.

In Section 205, subsection (a), you prescribe mandatory ratios of instructors to students. Where is the evidence that those particular ratios produce educational quality, while others do not? I submit to you that these numbers are inherently arbitrary. Yet they infer that your inspectors will need to verify that they have been met. Is this how you want your state inspectors to be spending their time?

In Section 207, subsection (a), please note that AB 1401 contains provisions allowing for student receivables to be counted in current assets. This section will need to be revised as soon as AB 1401 becomes law.

In Section 210, subsection (g), please note that the refund policy prescribed for non-WASC accredited degree-granting institutions, much like the prescriptions contained in AB 1402 for private career school offering certificates and diplomas, constitute a radical departure from traditional American educational practice, in which a student assumes responsibility for the payment of a whole course after 21 to 30 days of enrollment. Under current practice at most of these institutions, if a student withdraws after the third week of classes, he or she gets no refund. With this new regulation if a student withdraws during the fourth week of a 16-week course, the student gets 75 percent of the tuition back. For a four unit course costing $250 per unit, or $1,000, the student is able to recover $750. The loss of revenue from Section 210 could threaten the financial stability of many private unaccredited degree-granting institutions in the State.

In Section 211, subsection (b), I note that this section allows degree-granting to grant admission based on a high school diploma or a GED. Yet, for private career schools, under Section 94319.2 (a) of AB 1402, this ability is pre-empted and an admission test is required. As of the May 24th version of AB 1401, it must be an ability to be trained test. It is ironic in the extreme, that the Legislature voted to impose a set of regulations on private career schools that includes a provision that prohibits these schools from using a high school diploma as the sole indicator of ability to benefit or to be trained, while that same Legislature spends billions of dollars annually on education directed toward producing such diplomas.

I wish I had time to comment on all the other sections, but let me turn to Appendix C, the proposed regulations for non-degree granting private postsecondary vocational education institutions,

Appendix C

Because Appendix C is based on AB 1402, and because that law is very prescriptive in its educational requirements, it should come as no surprise that one finds that it contains fewer proposed regulations than Appendix B. The brevity of this section could reflect, as well, the fact that AB 1402 has been substantially amended by AB 1401 and that this bill has not yet been enacted.

However, there are useful things to be said about Appendix C. First of all, if AB 1401 is enacted, it will require regulations to help implement it, particularly in Article 2.5. For instance, the new ability to be trained requirement will require regulatory explanation. Therefore, I would request that a second hearing be held once the regulations relevant to Article 2.5, as amended, have been drafted.

Secondly, it would be useful for CPEC and PPED to immediately address the critical issue of the retroactivity of AB 1402. This would be an appropriate regulatory topic. The suspension of enforcement of AB 1402 and the advent of AB 1401 created two different retroactivity issues. One, when will the changes in AB 1401 take effect, and two, what is the retroactive enforcement status of the provisions of AB 1402 whose enforcement has been suspended but which are not changed by AB 1401?

I am happy to say the first issue appears to be resolved. The Higher Education Corporation was able to get the Office of the Legislative Counsel to commit to a change in the Digest that precedes AB 1401. On page 7 of the May 24th version of the bill, in the Digest, the second to the last paragraph begins: "The bill would specify that the amendments made by the bill shall apply as of January 1, 1990..." After being unable to find where in the law this retroactivity was actually spelled out, we called and asked for clarification. In response, the Counsel's office acknowledged that this was an error, that the amendments will apply as of the operative date of the law (which is 30 days after it is signed by the Governor), and that a future version of the bill will note this correction. Had this interpretation of the law stood and been implemented by PPED, the operational and legal consequences for private career schools would have been very severe, as it would have meant that schools would have needed to have been in compliance with these new amendments since January 1st. This would have been, of course, impossible.

The second issue is yet to be resolved. AB 1401's Section 44 begins to resolve the issue, but stops short. Section 44's second sentence makes clear the intent that any legal action taken against a school based on three sections of the law by anyone whatsoever becomes moot, if that action had not yet been made final by a court by the operative date of the law. The three sections cover financial requirements (94316.6), prior approval of certain financial transactions (such as salary increase of advances of $20,000 or more) (94316.15), and the ability to benefit test requirements (94319.2). Unfortunately, by implication, all other sections of the law for which a school faces legal action don't become moot as of the operative date of the law. A more fair and reasonable version of SEC. 44 would have made moot all Article 2.5 legal actions. Why just three sections is a mystery.

This issue could be resolved by regulation if the Superintendent and the Council use their powers to state that they will enforce AB 1402 and AB 1401 as of the operative date of AB 1401, which is likely to be in early August. If this issue is not resolved in a manner as I suggest, one can easily predict that retroactive enforcement back to January 1, 1990 of provisions of AB 1402 that were suspended but not changed will spark angry lawsuits by private career schools against the State that will grip the Superintendent and the Council in needless, time-consuming and expensive litigation for years to come. The Council needs to get off on a better foot than that. We need a uniform enforcement date, and you can help bring it about.

Lastly, despite its extensive specificity, there are some gaps in AB 1402 that ought to be resolved in regulation.

In setting a mandatory completion rate, the law created by AB 1402 law does not address the issue of the "false or fraudulent student." Such a student registers for classes for the express purpose of receiving loan money and then disappears after acquiring it. As the law is currently written, such unscrupulous students can contribute to a school being forced to drop a course due to a poor completion rate. Such students should be excluded from the completion rate calculation. I do not believe it was the intent of the Legislature to have such students counted in the completion calculation.

It is recommended that a regulation along the following lines be adopted:

> "An institution may exclude from the completion rate calculation "false students." A false student means a student who fails to return, or make specific arrangements for the repayment of, unused financial aid or tuition and fee amounts already owed the institution within 30 days of his or her withdrawal. In order for an institution to certify a student as false, the student must (a) fail to attend classes for a three-week period and fail to provide a written explanation for the failure to attend; and (b) been the recipient of financial aid or educational supplies or materials within 30 calendar days of the first date of the three-week period of non-attendance in class. The institution must send at least two notices to the student by certified mail: one within 14 calendar days after the three-week period has elapsed and another within 30 days after the end of the three-week period. The notice must state that the student must make contact with the institution for purposes of arranging payment of financial aid or tuition and fee amounts owed or risk being declared a false student by the institution. Each institution shall maintain for a period of five years documentation of its attempts to contact false students."

This completes my testimony. Thank you for your attention.

Testimony of Presenters at Sacramento Hearing on June 26, 1990

Introduction, William Haldeman

Welcome to the California Postsecondary Education Commission. That's usually referred to as CPEC. This is the time and place set by CPEC for a public hearing on proposed regulatory requirements for private postsecondary vocational institutions seeking to operate in California. The Commission staff with me are Dale Heckman, on my left; Anita Scurry, our Legal Counsel, on my immediate right; and Mike Sigsby, on my far right.

For the record, today's date is June 26, 1990, and this hearing is beginning at approximately 9:05, at the Consumer Affairs Board Room, in Sacramento.

We ask that all people attending the hearing sign in at the roster at the entrance to the auditorium. This is a way of keeping your name on the list for future mailings of revised regulations as they are revised. If you wish to speak, and your name is not already on the list of presenters, please complete a form and see that one of us up here gets a copy of it.

The purpose of this hearing is to receive oral and written testimony concerning the regulatory proposal described in our notice. For your information, the regulations the new Council will adopt will need to comply with six legal review requirements. I'd like to name these, and then reiterate them for your information because they are important, ultimately, in the formulation of the regulations. The six are: necessity, the standard of authority, the standard of consistency, of clarity; of non-duplication, and reference. Let me go back over those briefly.

Necessity: Has the Council demonstrated for the record substantial evidence of need for each part of these regulations?

The second standard is *authority*. Has the Legislature delegated to the Council the power to adopt these regulations?

The third standard is *consistency*. Do these regulations conflict with other regulations or statutes?

The fourth standard, a very important one, and a difficult one we're finding, is *clarity*. Can the regulation easily be understood by those directly affected by it? When you say it's not clear, you're hitting to the heart of the matter. We'll need to work on those that are not clear.

The fifth standard, *non-duplication*. Do these regulations duplicate any other regulations or statutes? They should not duplicate other regulations or statutes.

And the sixth is *reference*. Which statutes do the regulations implement, interpret, or make specific?

It will be helpful to us, and will strengthen your argument, if your testimony is directed to these six standards. I know, since they're introduced just now, that may be difficult. But as they occur to you to make reference, it will be helpful because that will trigger a response in us that is a bit stronger than if they are bypassed.

Before I ask for your testimony, I would like to describe briefly the procedures we will use today. The entire proceeding, as you see, will be tape recorded. The panel members will not engage in any discussion of the issues raised by your testimony. Nor will we cross-examine any of the presenters. We may, occasionally, however, ask a presenter to clarify a point if it would help us to better understand your testimony.

All recommendations and objections will be carefully considered in the subsequent revision of these draft regulations. We will begin by calling on those who notified us prior to today about their wish to speak. It is our intention to take testimony first from those on the printed list. (I'll need a copy of that, Mike.) We'll take testimony from those on the printed list in the order in which they appear. Following the last person on that list, we will hear from those that submit their request today on the form earlier referred to. I have two such requests at present, from Nina Bouley-Naylor and Frank Ford, and if there are others of you that wish to speak, you might fill one of these out and bring it up to Mr. Sigsby.

When you come forward, I'd like to have you sit at this chair here so that both those in the auditorium and we can hear your testimony. Identify yourself by name and institution or organization that you represent since this is a part of the recorded transcript, and in your oral testimony, as much as possible, please identify each specific regulation to which your remarks are addressed.

I think, with that, we will begin with the first speaker that is present. Kathleen Callanan is not yet here. I trust that she will be. In her absence, we'll go to speaker number two, Karen Murphy. Are you here?

Karen Murphy: Yes, I'm here.

Would you come up, Ms. Murphy, and join us up here?

Karen Murphy: Should I be seated right here?

That microphone, as I indicated, is not on, but our microphone for the . . . .

Karen Murphy: That's okay. I have a rather loud voice. I don't think there'll be any problem with people hearing me.

Karen Murphy, Accelerated Career Training

I'd like to preface, I guess I have to, my statement before I begin. I want to make sure that I understand clearly this is not a point to where I would be allowed to ask a question. I am only here to make a statement. Is that correct?

William Haldeman: That's correct. You may find us from time to time asking you questions, and we might get into some discussion. But, by and large, we would like to keep our testimony to expressions of your desires . . . changes.

Desires rather than . . . . Okay. There will be a time, I'm assuming, later on where we would be allowed to do this. Is that possible?

William Haldeman: At the end of the meeting, let's reserve a little time for that, and we'll have a little free-for-all, if we have time.

Excuse me, I didn't even mean here. I meant at a later date.

William Haldeman: Surely.

Okay. Thank you very, very much.

William Haldeman: Would you state one more time your name and organization?

My name is Karen Murphy, and I am the owner of Accelerated Career Training. I have one location in San Francisco, and another branch in Concord, California. My school teaches Bank Teller Training. It is a two-week, 40-hour course.

The purpose of me being here today is I would like to address, it would be on page 24 and 25, and it's under Article 94312 of Enclosure Number 2.

On page 25, number 3 states, "Institutions shall pay or credit refunds due on a reasonable or timely basis, not to exceed 30 days, following the date upon which the student's withdrawal has been determined." I find this to be fair and equitable. I agree with it. My reason for being here is I would like that statement, hopefully, to be made clear to all schools.

I have been in the process of renewing an application for my San Francisco location, and I'm not getting any satisfaction. I was told when I applied that it was a 10-day refund, absolutely mandatory, which I complied to, sent in my forms accordingly. Then, when I received this information, it clearly states that it is not to exceed 30 days. So, there's a difference here. There's not clarity. I would like to know what it is.

Number 5. "The Council shall take into consideration the contract for educational services entered into with the student, as well as the length and character of the educational program in determining standards for refund, and the decision of the Council shall be final." Now, I'm sure everyone here has varied opinions on that. From my viewpoint, I would like the Council to most strongly take into consideration a school such as mine.

I have a 40-hour course. The course runs for two weeks. We are very successful in placing people into jobs in financial institutions. The school teaches Bank Teller Training. We are exclusive to that. As the new law is written, again so I was explained by Private Postsecondary when I applied for my renewal, that there would be a five-day full refund period now, which would be mandatory, which would replace the three-day federal law cooling-off period. I feel very strongly that, for schools such as mine that have such a short program, that a five-day full refund period is outrageous. That would mean that the student could complete half the course; be practically ready for an interview; and come to me and say now I want a complete and full refund.

The procedure under which I have been running my school for five years, I feel, has been very fair and equitable. The student may come and demand a full refund within three days of enrolling. After three full days, they will not receive their registration fee, which is $70.00. If they have begun class, I issue refunds on a pro-rated basis, and it's very fair. The student receives a refund up until they've completed half the course. After they've completed half of it, there is no refund.

Now, to me, where the law is not clear is that for larger schools that have long programs (1 year, 2 years, 300 hours, 600 hours) the new law was designed to protect the student, and I understand that -- for people that are recruiting students out of stairwells and, God knows, what else. But, for the smaller schools that have 30 hours, 40 hours, it's not fair. And I would hope that the Council would take this into consideration and make the law clearer, so that we can understand it.

William Haldeman: Thank you. Is that the extent of your testimony?

Yes.

William Haldeman: That is right on target. We have not yet developed that regulation in response to that need, and it's helpful to have that point of view.

Thank you. That's why I wanted to address you, and thank you for allowing me to speak.

Kathleen Callanan, Board of Behavioral Science Examiners

William Haldeman: Kathleen Callanan is here, I believe. Dr. Callanan, could you come forward and address us? As you may have determined, we're not on the broadcasting system, but we are being recorded.

Thank you.

My name is Kathleen Callanan. I'm the Executive Officer of the Board of Behavioral Science Examiners. First of all, on behalf of the Board, I would like to thank the Commission, the California Postsecondary Education Commission, for having the skill and the courage to promote significant changes in the way that degree-granting private, postsecondary academic institutions are approved and operated in California. It has been abundantly clear to us that the existing system which operates within the Department of Education had neither the academic expertise nor the political will to effectively regulate approved schools.

The Board of Behavioral Science Examiners is responsible for the licensing and regulation of three professions. These are marriage, family, and child counselors; clinical social workers; and educational psychologists. Although current law requires a degree from an accredited university to qualify for either the LCSW or the LEP license, the MFCC law allows degrees from approved schools to qualify for licensure.

After years of confusion and controversy regarding the academic requirements for the MFCC license, comprehensive reform legislation authored by Assemblyman John Vasconcellos was enacted in 1987. Section 4580.40 and .41 of the B & P Code now establish appropriate educational objectives which must be included in an integrated degree program designed to prepare one for marriage, family, and child counseling. Applicants applying for licensure on or after January 1, 1988, must possess a doctor's or master's degree in marriage, family, and child counseling; marital and family therapy; psychology; clinical psychology; counseling with an emphasis in marriage, family, and child counseling; or social work with an emphasis in clinical social work from an accredited or approved academic institution.

Prior to this law, the Board was faced with approximately 160 academic programs in California which purported to offer master's degree programs which would qualify for the MFCC license. At most CSU campuses, there were several different departments which were recruiting students who wanted to be marriage, family, and child counselors. This would typically include the psychology department, the education department, the counseling department, and, in some cases, the art and dance departments. At that time, the law identified six degrees which would be accepted. It also included the words "or the equivalent" as deemed by the Board. It was thought that virtually any master's degree would qualify as "equivalent" if someone on the faculty, even a part-time instructor, certified that the courses were "equivalent" to those required by law. Since the clerical employees that evaluated MFCC applications did not have the expertise to evaluate curriculum all over the State, they took a very "flexible" approach and relied solely on the signature of someone on the faculty. In some cases, an aggressive professor would develop underground course descriptions for the purpose of verifying the course equivalency. During the course of the reform legislation, we learned that many of these Departments did not have their own university's administration approval. One of the key components of the new MFCC law is the requirement that the program certification be signed by the chief academic officer of the university. This provision recognized that the university administration should be responsible for the development and verification of degree programs which lead to licensure.

At most accredited universities, it took two to five years to resolve degree title and curriculum problems to completely address and clarify all of these problems, due to the extensive justification required to make substantive changes of this kind in an accredited university.

In contrast, many of the approved schools were able to change degree titles and course descriptions in less than a week. This caused the Board to be suspicious of these changes, particularly when they were made retroactively, as they were in some cases. The Board also began to notice that some transcripts reflected large amounts of life experience and transfer credit for coursework completed elsewhere. The Board wanted to know why the official course descriptions were identical for all students at correspondence and distance learning, even though every "learner", as they like to call them, is allowed to develop their own course content.

About three years ago, the Board instructed staff to require documentation of coursework used to earn the degree from correspondence or tutorial programs. Much of what we got did not appear to reflect graduate level study in the field of psychology. Usually, each of these course papers, if there is one to look at, at all, are stream-of-consciousness narratives of the writer's own emotional development without a single reference to any book on the bibliography. In fact, in several cases, the books on the bibliography were published after the writer graduated from the program. A course on human sexuality would typically consist of short papers entitled "How I Became Sexually Active" or a course in psychopathology is verified by a short paper on the writer's effort to diagnose and treat her father's pathology. Obviously, it is very helpful for a therapist to be conscious of their own development issues, but we think that the public would assume at least some familiarity with the body of knowledge regarding the content, process and method of counseling.

It is important to keep in mind that the MFCC license authorizes its holder to provide psychotherapeutic services to the public for a fee. The consequences of incompetent or unethical practice can have disastrous consequences on consumers. The Board will never have the resources to properly evaluate each school's counseling degrees, and we want to urge the Commission to take steps to develop a competent approval process for the MFCC degree programs. While academic freedom is certainly a worthy goal, let's keep sight of our public protection role in this field.

We would like to strongly support the concept in Section 217 subdivision (d), which provides that: "Degrees which imply preparation for licensure in, or acquisition of skills in, a direct practitioner-client therapeutic relationship, such as those licensed by the state through the Board of Behavioral Science Examiners, shall not be offered by means of correspondence or distance learning."

The Board finds it difficult to understand how a correspondence or distance learning masters degree could adequately prepare someone to perform counseling or psychotherapeutic services. A student pursuing a graduate degree in psychology at a correspondence school usually only interfaces with one tutor for all of the required coursework and misses all of the richness of discussion and the socializing aspects of a classroom educational experience.

The Board is very concerned about the limited exposure of having only one tutor for all of the coursework. I do not think we would find many accredited academic institutions which would allow a single instructor to provide courses in psychopathology, law and ethics, research methodology, counseling theory, etc. During this last exam cycle, we received an application from someone who received all of his master's degree coursework from the same tutor who also provided supervision of all 3,000 hours of clinical experience and provided personal psychotherapy to this applicant. The Board wanted to deny this application, but was advised by counsel that, under existing law, this situation is not prohibited. This can only happen because the usual pattern at one of these schools issuing one of these degrees is for a student to select his or her own tutor for all of the coursework, including the practicum. There is no requirement that this tutor possess the degree for which he or she is providing graduate coursework. Correspondence schools would argue that possession of an MFCC license meets the requirement of Section 205(c) that "the faculty shall have graduate academic training and degrees and/or professional experience appropriate to their teaching assignments and consistent with institutional purposes". It is important to remember that there was a 20-year grandfathering period for the MFCC license, and that many current licensees have degrees in Divinity, Education, Rehabilitation, etc., which would not qualify for licensure today. In fact, the draft language of Section 205(c) would still allow one student to have only one faculty member who does not have a master's or doctor's degree in the field they are providing the coursework. Therefore, we would recommend that the Commission require that students enrolled in MFCC degree programs should receive coursework from more than one person, and that each student should be served by at least some faculty who possess academic degrees from accredited universities. I would like to give a few examples here:

We had an application from a student who took all of his coursework at CSU, Los Angeles. He failed the comprehensive examination and, then, transferred all of his coursework to a California approved school. He then wrote a thesis and was granted his degree with no further coursework involved.

Many of the students who are attending these schools only write one thesis to cover all 10 course requirements. In one such case, the thesis was on eating disorders. The coursework is described as applying theory to anorexia nervosa. In order to meet the course requirement in research methodology, the writer discusses her own research method and examines the relationship of Erickson's stages of ego development to her original theory concerning the therapeutic use of dreams. I don't think that anyone who went to an accredited school would call that research methodology. Throughout the rest of the thesis, the applicant shows no apparent content relating to the central MFCC course content topics.

In another instance, to qualify for a master's degree in psychology, one applicant submitted a thesis entitled "Self-Concept and the Pursuit of Success." It is based on experience with a group of Amway distributors who were "reasonably successful in life but dissatisfied with their business progress." The outcome was a handbook designed for use with any group of people desirous of increasing self-esteem. This does not deal with family adjustments or other MFCC topics. Moreover, the transcript indicates that all of the units applied to the 10-course content came by way of prior learning evaluated and credited through course equivalent papers by the school. However, prior coursework at the University of Dayton in education, shown on transfer credits on the new California transcript, appeared strongly incompatible with MFCC learning content requirements.

Another applicant had a master's degree in dance from UCLA. She was admitted to a California approved college June 1, 1985, and was advanced to Ph.D. candidacy only 4 months later, after completing 5 of her 10 content areas at the approved school.

Another applicant completed a Ph.D. in biochemistry at the University of Tasmania in 1981, but appeared to have no undergraduate or graduate background in MFCC studies. He nevertheless completed his master's program in marriage, family, and child counseling at a California approved school in nine months while gaining 29 hours per week of clinical experience hours.

As I understand it, approval to issue degrees is based on the comparability of instruction that is provided by accredited universities. If that is the test, then representatives from accredited institutions should participate in the approval process. Several years ago, I was invited to observe a site visit conducted by PPED. I was struck by the fact that all of the members of the approval team were principals in other approved institutions except for one assistant professor from the CSU campus. If there is to be only one team member from an accredited university, then it should be the chief academic officer of that university, or his or her designee who is authorized by the university to express opinions on what coursework is or is not comparable to that provided by an accredited institution.

I would also urge that the Commission be as specific as possible regarding the approval of institutions who will be issuing one of the seven degree titles which qualify for MFCC licensure. You have an opportunity to add some quality assurance components to the college approval process. In these degree programs, it is essential that appropriate standards are articulated and monitored because of the direct impact on consumers of psychotherapeutic services. Historically, there has been too much flexibility which allows schools to issue degrees in the absence of appropriately trained registrars, in the absence of any knowledge of current standards with regard to transfer credits or life experience credit, and without any scholarly expertise to design and provide the coursework.

We hope that the Commission will also be very specific about the process of withdrawing approval from degree-granting institutions which engage in practices which would not be tolerated in an accredited institution. We fully recognize the enormity and the difficulty of the Commission's task of formulating new regulations and standards for degree-granting academic institutions, and we'd be glad to assist you in any way that we can. Thank you.

William Haldeman: Thank you Dr. Callanan. Are there any questions?

Audience: Will that be available to us in xerox form?

Sure. I will provide it to you this afternoon in writing.

Audience: Thank you very much.

Audience: Will we be able to get a copy of that, too?

William Haldeman: We hadn't confronted that request. Sure! This is all public testimony.

Rene Champagne, ITT Educational Services

Good morning, ladies and gentlemen. My name is Rene Champagne. I am the president and chief executive officer of ITT Educational Services, a wholly-owned subsidiary of ITT Corporation, and one of the nation's largest providers of postsecondary career education by virtue of our 38 degree-granting schools located in 18 states,with over 16,000 students, operating under the name if ITT Technical Institute. We have seven tax-paying ITT Technical Institutes in the state of California, with more than 3,200 full-time students pursuing degrees at the baccalaureate and associate levels in technology-based programs focused on science, math, and physics subjects. The majority of our student census, 51 percent to be exact, is comprised of minorities. Hispanic students represent 32 percent of the student body; Asians, 11 percent; Blacks, 8 percent; and Whites, 49 percent. Graduates of our California schools have obtained employment with firms such as McDonald-Douglas, Ford Aerospace, Boeing Aerospace, TRW, Hewlitt-Packard, Xerox, AT&T, General Dynamics, and many others. We are justifiably proud of our accomplishments and of the positive impact upon the economy of this state and upon the individual students whose lives we have been able to change for the better.

I appreciate the opportunity to address you today with my comments about the proposed regulations for approving degree-granting institutions. I share the Legislature's desire for quality education and consumer protection for active and prospective students. I have submitted to you copies of written comments which are more extensive than time permits to orally comment on today.

Let me begin by saying that I am particularly concerned by the Commission's decision to except degree-granting institutions regionally accredited by the Western Associations from these proposed regulations. This exemption is clearly discriminatory, and may very well be viewed as a violation of federal anti-trust laws because the exemption prevents fair and equal competition within the higher education business arena. I respectfully urge the Commission to either exempt all degree-granting schools accredited by associations recognized by the U. S. Department of Education, or include all under the proposed regulations. And I refer to your six points, I guess that would be authority, consistency, and necessity.

The proposed regulations for approving degree-granting institutions go well beyond the intention of insuring quality instruction and student-consumer protection as envisioned in SB-190. For example, proposed regulation 202 would, in effect, emasculate the rights of private business by requiring the creation of a new oversight board empowered by the State to establish policy for the institution; to create long-range plans for the institution; to appoint and evaluate the chief executive officer of the institution -- who, by the way, would be prevented from acting as a voting member of the board -- and the board would also be responsible for maintaining the physical health of the institution. This board concept has little relevance for a private corporation, which already has its own board structure. No physically responsible corporation would abdicate its decision-making powers to an advisory Board, nor would it open its private financial records to the scrutiny of non-professionals in the field of business in which it operates. To do so would be the most serious breach of fiduciary responsibility to its shareholders. The time-tested rights of capital investors in our free enterprise system to determine how their organizations will be organized and managed must be upheld and free of any governmental interference.

I strongly urge the Council not adopt the proposed regulations, as I believe they venture well beyond the authority of SB 190, and may very well be seen as unconstitutional in the court of law. This is not to say that these proposed regulations are not required for tax-payer supported institutions. The State may very well want an oversight function in publicly supported schools. However, there must be a distinction made between institutions operated with private capital funding and those who use taxpayers' dollars. I would assume my comments lean to authority, consistency and necessity.

The various proposals referring to the role of the faculty seem more intent on imposing a *de facto* faculty union environment upon an employer than to protect the consumer interest of the students, which was the intent of the Legislature. We object to the definition of a faculty member as a person "under contractual obligation to the institution," as the exclusive method of hiring and retaining instructors in the school. We fail to see how the public welfare or the best interests of the students are served by forcing a school to enter into a contractual obligation with a faculty member. To mandate that this employment relationship be memorialized in a written, binding contract runs afoul of the fundamental freedom of choice that each person, whether natural or corporate, enjoys in this country, and it is an impermissible intrusion of a regulatory body into private affairs. I would say that is authority, and consistency.

Sections 203 and 205 are the ones I am going to refer to now. We object to the proposed regulation requiring that faculty of the institution be given substantive rights in the governance of the institution in matters concerning the education program, student admission requirements, degree requirements,the hiring of faculty, and other matters of institutional policy and practice. This regulation selects a class of the institution's employees and creates a disproportionate sphere of influence for them, to the detriment not only of other school personnel, who may be of equal importance to the ultimate success of the student in school and in his or her career, but perhaps to the students themselves. To favor any particular class of school employee, to create unequal and unwarranted influence for any one group, would detract from the school's mission and diminish our ability to fashion our curriculums to meet our institutional outcome objectives and the needs of the eventual employers.

William Haldeman: May we interrupt? Excuse me for interrupting. May I interrupt right at this point and ask which statement in -- you're under 203?

203 and 205.

William Haldeman: . . . 203 is relatively short, a couple of paragraphs. How did you isolate the statement that . . . .

I did not. Let me get my copy, 203 subparagraph B: "The faculty, both individually and collectively, shall develop, evaluate, and revise the curriculum. The institution shall adopt written policies governing the faculty's role and responsibility in curriculum development and oversight."

William Haldeman: And you object to the faculty being in control of the curriculum?

As I have stated, exclusive control I am objecting to. And in 205, the Commission gets even more specific in terms of the requirements that the faculty will have. Okay?

William Haldeman: Got it, thank you.

We are responsive to the input of all employees involved in the common mission of educating a student and preparing him or her for the workplace, and we look to each such employee for his or her input in areas relating directly to their area of responsibility and expertise. This includes faculty, but it does not include them exclusively. These faculty-oriented proposals far exceed the intent of the Legislature, intrude upon the management rights of private and free enterprise business, and serve no public interests.

Now, I am going to refer to section 217. Regarding the proposed regulation mandating general education requirements for all bachelor and associate degree programs, we believe the Commission has failed to properly differentiate between private degree-granting career institutions from those offering more traditional academic degrees. We respectfully submit that there is no real value added to the students' educational experience by simply forcing them to repeat subjects more properly taught at the secondary level. Perhaps it is lamentable that more students are not attracted to traditional liberal arts. But, forcing them to revisit those courses as a prerequisite to receiving technical education they are truly interested in seems to be, to us, a pointless exercise, and may very well dissuade many from pursuing postsecondary career education containing such subjects.

Students who attend private career schools do so because they have been disappointed or uninterested in traditional curriculums. Mandating the inclusion of specific general education courses into the curriculum will not enhance the graduate's employability in his or her chosen field.

Now, in section 16 . . . In fact, I am recommending section 16 be eliminated in its entirety.

William Haldeman: 216, or?

216! Excuse me.

Conspicuously absent in these proposed regulations is the concept of consumer protection so strongly emphasized by the Legislature. Certainly, the Commission recognizes that virtually all California citizens pursuing postsecondary education do so in hopes that such education will lead directly to employment upon graduation. In the spirit of true consumer protection, the Commission is obligated to insist that all postsecondary institutions publish their degree program completion rates as well as their job placement rates of all graduates in these degree programs.

How better can the State serve its citizens interested in postsecondary education than to mandate that all postsecondary institutions disclose their student outcomes. Public disclosure of student outcomes will allow prospective students and parents to make more fully informed decisions, and I suspect public disclosure of student outcomes will provide the required impetus to improve the quality of education in certain institutions.

In conclusion, I thank the Commission for the opportunity of testifying today, and I am willing to answer any questions the Commission may have of me at this time.

William Haldeman: On your last point, you had indicated that you were addressing 216, which is titled here as "Student Activities and Services"?

Yes, it refers directly to 216C.

William Haldeman: Discussion on placement?

Yes, I would scratch 216 and implement new words that require completion rate disclosure and placement rate disclosures.

If you look at 216C, it says any statement implying that the institution provides placement services, and then it goes on to exempt certain postsecondary schools who only provide placement service to the extent of a bulletin board notice. It seems to me every postsecondary institution in this state has a requirement to assist its graduate in finding employment more than just posting bulletin board notices.

William Haldeman: Yes, this is a curious issue between degree-granting schools and certificate diploma granting schools, in that the law, to this point, does not require placement rate, at least as I read it, placement rate reporting for degree-granting schools.

You are correct.

William Haldeman: I'm not sure where we would do that here.

Not set specific percentage targets on completion rates or placement rates because no governmental body nor any school can, in fact, pick a number. But, the mere fact of requiring schools to disclose the information will allow better consumer choices to be made. If the consumer sees that the completion rate is 16 percent and still chooses to go to the school, it seems to me the State has done its obligation of making sure that they are informed when they make a decision, at least. I'm not sure if you're aware of the report that was issued by the National Association of Independent Colleges and Universities, NAICU, regarding completion rates. But, they found nationwide that publicly supported, state-supported schools at the postsecondary level only complete 16.5 percent of their incoming freshmen in degree programs. That's appalling. Why aren't we requiring those individuals to publicize that information so that the children of this state can make a more informed decision, and the parents don't have to waste the kind of money that they're wasting sending their kids to some of these schools?

William Haldeman: Well, that's an intriguing proposal. We'll have to take a look at that, and seriously study it.

William Haldeman: I'm not ignoring your point. It seems to me that what you're proposing is different legislation from the legislation that we're working from to draft regulations. Let me ask, put it in the form of a question: Is there a point in the legislation, if you want to move to that, where you are suggesting an interpretation could be made so as to achieve what you are proposing?

Section 216 subparagraph C. You have an opportunity within that subparagraph to change the language completely.

William Haldeman: But, I am asking what portion of the statute would that interpret then?

There is no part in the statutes to cover 216C. So, it did not seem to limit the Commission for writing 216C. In fact, SB 190 does not contain anywhere near the proposed regulation content, if you look at the statutes.

William Haldeman: The category in the statute is the title of this section, "Student Activities and Services," and the implication is that the service is information services.

What greater service can the State assist students with than to disclose the completion rates and placement rates of the institutions. That is the ultimate service.

William Haldeman: I think you have a point. Thank you, and let's proceed.

Fran Ford, Shiloh Bible College

William Haldeman: I'm not sure that Fran Ford is here. I think she told me yesterday . . . Fran, you're here.

I'm here.

William Haldeman: Would you please come forward? State your name and organization for the record.

Thank you. I'm Fran Ford, Administrator of Shiloh Bible College.

The majority of my remarks have to do with technical issues of things that I feel need some clarification or that would be problematic in applying to our particular institution, and, therefore, might also be problems to other people.

Under the area of general education, there seems to be some confusion in the definitions as from Article 1, Number 100K, gives five traditional categories, and compared to Article 2, Number 217B -- that's page 14 and page 24 of the regulations that are intended to implement 94305B and 94310B -- Number 16 lists six under example "fields" given with the stipulation that there must be three units each for bachelor and two units for associate. In order for that to be practically worked out, I would need some clarification because there is some difference between those two. I'm not quite sure how the general education is being defined by the regulations.

William Haldeman: The inconsistency that you found is between section 100, definition K . . . ?

No, um, yes. Section 100K lists five traditional categories. We call them traditional. Traditionally, this has been defined, and it gives five things.

William Haldeman: Okay.

When you get over to the other one, it gives six things, and they don't even match entirely. Only four of them actually match literally. The other two . . . I don't know what you mean.

William Haldeman: We need to make that consistent.

Okay. Initially, on my first copy that I turned in that I had a problem with the equivalency of one-fourth of the requirements because I missed seeing the word "at least." But, I thought, that's going to make my requirements a lot bigger because a good part of them are in our program. Our school is both vocational and degree-granting in the area of theology.

Now, we haven't previously tried to have the full realm of general education, and I'm on the opposite side of the technical school, where the very things that are not useful to the technical school are more useful for us and some of the technical, the science aspect of it, is semi-irrelevant for a theology degree and for functioning in the society and being what they're supposed to be in their occupation, the kind of degree. So, I've got just about the opposite problem with that stipulation of general education.

It doesn't fully fit into our program in that sense, and it would kind of put an undue burden on the requirements. But, if the law goes into effect, and we have to comply, I still have these technical problems with the compliance.

The stipulation of it being, as extensive as it is, might be a problem as well. Because the schools on, you know, especially technical and occupational or more -- I can't even think of a term for our side -- we're on the opposite end of the spectrum as far as it being more public service and less technical. The life sciences and technical requirements -- although, we do require an accounting class for our bachelor's.

Audience: . . . .

We're a Bible College.

William Haldeman: Would you consider you'd be bachelor's degrees, professional degrees? Therefore, a service? Do they prepare for the Ministry? Or not necessarily?

Not necessarily. And that's where we run into some other problems with the very issue that the first speaker brought up about the stipulations for completion and the stipulations that he thought were the best thing to do in the area of jobs. Because ours is almost avocational in many cases. A person is preparing for Ministry, but they might not see that as their main job. And, also, we have, I'll have to go on to be exact on some of these other issues.

The next item was the regulations, the interpretation of the faculty's role in the school. The regulations do seem to give an inordinate proportion of the authority for control to the faculty which, by definition, is the teaching body of the school, not the administrative. However, I see in Article 202G the faculty is given an advisory role even so far as student admission. Which I think -- there are several things listed there, all of which are somewhat questionable whether the faculty needs to be involved in that. And the time factor of the faculty having to be involved in all of these administrative functions is somewhat prohibitive unless your faculty has a dual role of teaching and administration, which is not terribly practical in our kind of school. It would take away from their time and their primary role of being instructors.

William Haldeman: Your faculty do not have a say, for example, in the level of preparation students should have coming into the institution?

In my understanding, this law is giving us the regulation that the administration, that our job as the administration, to enforce. So, I don't see the value in inserting the faculty into that process. Since the law says they've got to have high school diplomas to go into associate and these other things that are regulation, I think are clearly enough stipulated that the faculty being involved in that role is not necessary, and it's going too far.

Also, on the areas of 205 Number A, A1, G and I, I need some clarification, and there's two aspects that are a problem for our particular school: use of the word "employee" in the area of faculty will not work for a non-profit school that contracts its services -- volunteer services. We don't employ our teachers. We contract them. They are giving their time. I would have a problem with trying to comply with a law that caused me to use the word "employment" without being devious. Like, give them $10.00 and have them give it back.

William Haldeman: They are volunteers?

They are volunteers.

William Haldeman: They serve without pay?

They serve without pay.

William Haldeman: But, yours are under contract?

Yes, we have a signed agreement with them which we -- now, my interpretation of the contract is very simple. This is the class; I will teach it; I'm not getting paid. That's the contract.

William Haldeman: It's a contract because our attorney says it's a contract.

So, that's the way our -- I thought if you could put "employee or contractor services," or some language that would give us ability to comply with this law.

Also 205G, I've got a bit of a problem with the idea that the faculty is going to screen the faculty. That doesn't seem to be their job, in my definition of . . . . That should be, that's more of an administrative function, and I don't really see, under Article 94310B, Number 5, that defining faculty requirements have to be in there at all. It seems to me to be going beyond the law. Beyond the necessity of this definition. It's under Item 5 which is "Review and Assessment of Faculty, Including Their Qualifications." That we interpret that the faculty is the one to interpret the other faculty's qualifications. That seems to be an administrative function, or just not necessary here.

Also, I wonder about this statement in 205I regarding academic freedom. I would need some clarification on that. What is the intent of this regulation? In order for us, to see whether I actually, indeed, object to the premise, because I'm very unsure what you mean by the school being required to have a statement of academic freedom. Page 22 . . . .

William Haldeman: Before you get further from the faculty question, how does it work in your institution now? I'm not talking about the final hiring decision, now, but the screening, the determination of whether so-and-so, whether an ex-professor or candidate is qualified in, let us say, a certain area of Biblical studies? My question is a very narrow question. I'm wondering whether one or two administrative persons make all those decisions, or whether it's divided among a variety of administrators who have various expertise.

Our school has a total of two full-time employees. The teaching staff ranges between 27 and 55 instructors. We do have a review board. The qualifications that we have are on file. Since our teachers are volunteers, part of the screening process is our knowledge of their areas of expertise and interest. For example, we need a class in New Testament survey as one of our requirements. Which of our instructors that we have available to us that are willing to volunteer their services and qualified, and have their authorization certificate from the State of California, because we're also vocationally approved, would best teach that subject because it's of central interest to them. Since they're giving their time, . . . the subject's got to be of interest, and they need to be qualified, and we make those decisions based on our understanding of their interest, qualifications, and experience in that category. They would definitely have to have taken that level of class themselves at some point, or have expertise. That's the rule we've been using all along, based on the vocational program, years of X-degree to that level or 5-years experience, you know, to comparable.

William Haldeman: So, the two administrators together . . . .

And when we need, we have other administration. Our review board is available to us for consultation in areas where we need help. But, we do have the two. That's basically how it's done.

William Haldeman: Who is on the review board?

There are nine members. Some of them are from the college, some from the supporting church that we're independently owned and operated by, and some members from the community. We have other people who are . . . .

William Haldeman: But, no faculty?

No, some of them are faculty, too. So, in that sense, there are some of the faculty. When I see that in writing -- the faculty -- I envision all 27 teachers having to make this decision.

William Haldeman: I don't think that it necessarily implies that.

That isn't necessarily how it would be interpreted, or how that was meant? Good. Because it seems to have really bogged down the administrative process, if it has to be, everything has to be run past the faculty.

William Haldeman: I understand. Shall we go on?

Yes. Regarding the library facilities, the regulations state, in 215C, that the school who does not have their own library facilities and is using access to other library facilities, that the work be no more than 15-minutes travel time. That particular stipulation would allow a range of between 10 blocks and 13.25 miles, based on a person's ability to walk, take the bus, or drive in the legal speed limit. So, I think that the 15 minute -- if you're going to go on the area's travel time -- is too short of a time. Because, in the city, in rush hour, you're not going to get more than 2 blocks in 15 minutes.

A 30-minute travel time and/or 25-mile limit might be a more reasonable limit for this area, and I expect other schools might have a similar problem. We are within 20 miles, well from central Oakland to Berkeley the GTU library is the fourth largest theological library in the United States. But, I believe I can not legally get there in 15 minutes. You know, if I, with the traffic and at midnight going 65, maybe. But, under normal, legal circumstances, I'm not liable to be able to get there, and that would mean that we would not be able to use that as our main library source. But, it's an excellent one, and our students have been quite happy with it.

William Haldeman: But, 30 minutes would be acceptable?

Yes.

Anita Scuri: I would expect that the interpretation would be liberal in that area.

Okay. Regarding tuition rates, there seems to be a bit of a conflict in the way it's written, unless I'm not understanding it.

William Haldeman: . . . that you were addressing this point?

215C on libraries.

William Haldeman: Oh, okay. Are you still on that?

No, now I'm on Article 210, Number 1, which is on page 19, compared with 210, Number 2c, which seems to be the difference between tuition regulations for full-time as opposed to part-time students.

It seems to say that the tuition rate for full-time students must have a percentage increase stipulation at the first or the next academic term or year, which can be accomplished. But, when you get down to the part-time students, they're locked into an enrollment rate that is the same as their first enrollment, and that should be the basis for computing the total charges . . . .

Basis for computing: does that mean that they, he or she will remain continuously enrolled, so we would compute it in that way? Would that mean that we could never raise the price for that student? I'm just not quite understanding whether that's just how you get your calculation, or what they were actually being legally bound to charge.

We have many part time students. 85 percent of our student body, or more, are part-time students, and that's another area where we'd have difficulty -- on the completion rate. I would say less than 1 percent of our students would complete in a two-year time span because we are so heavily part time in our clientele. And in the employment rate, if that were a stipulation it would also be a problem. Even disclosing those kind of figures would not be entirely appropriate for our kind of education.

So, I'm just not quite sure how I'm going to interpret Item 210, 2c. It seems to me to fix the rate, although it might just be intended for calculation of estimates to students.

William Haldeman: And, you believe that the rate should be changeable. Is that your point?

Well, if we have part-time students -- if they're taking two classes a semester, they'll be in school for 10 years. And, during that 10-year time, it might be necessary for us to raise their tuition. So, if that is how they intend it to be interpreted, that that is the regulation for charging, not just telling them what it might cost. I'm not sure whether it's actually a problem, or if it's just my understanding of it.

William Haldeman: There is a problem. There's a textual problem there. We will go back . . . .

The final area that I'd like to address is Article 216b. That's page 23. The stipulation regarding foreign student services, the statement being that "an institution contemplating enrollees from other countries must set aside in its representations and advertisements these three things . . . .

In practicality, if this includes our advertising for 30-second, 60-second radio spots, or a two-by-four newspaper ad. If you get too much data in there, too much cluttering things, the person's not going to read it in a newspaper. Advertising is a very short statement. And 30- to 60-second radio advertising as well. We can only state so much. We can only talk so fast and be understood, especially to foreign students.

We have to add all these things, I mean all our representations in advertisement. That is too vague if it includes those kinds of things. We also say, you know, ask for our catalog or brochure, and that lays out everything. But, the initial ad has got to be clean enough to be appealing, or it is going to be totally ineffective and, in essence, curtail our success as a school.

That's it. Any questions?

William Haldeman: Thank you very much.

Bill Barrett, San Francisco Art Institute

William Haldeman: Bill Barrett, are you here?

I am going to turn this in to you. That's about 90 percent of my remarks.

I appreciate the opportunity to be here and speak. I normally have a pretty good speaking voice, although I'm fighting a cold, ...

William Haldeman: Once again, would you repeat your name and institution for the record?

My name is Will Barrett. I am from San Francisco Art Institute in San Francisco. President of the school.

I would like to start, perhaps, by giving a bit of background, just about my own perspective on this situation. I bring it up mainly to show that I speak with some reasonable and varied amount of background on the subject, and not entirely out of institutional self-interest. I have about 20 years of experience in higher education. Before coming here to the West Coast, I spent 17 years on the East Coast at two different colleges, both of which were accredited by Middle States Association of Colleges and Schools and by the National Association of Schools of Art and Design (NASAD). NASAD was founded in 1948, and is the only Art school accrediting body in the United States.

I'm now president of the San Francisco Art Institute. As I said, we were founded 120 years ago. We're a non-profit 501C3 college, bachelor's and master's degree granting. For 30 years, we've been accredited by WASC and by NASAD as well. Five years ago, I began to do accreditation visits for NASAD. I've been on at least a dozen team visits, most of which were in conjunction with regional associations and, therefore, were joint visits, and I have chaired roughly 10 of those visits. I also became quite interested in the entire business of accreditation, and now serve as Vice President of NASAD and will stand for election as president this fall. Thus, I speak today as both the president of a California college and as an officer of the accrediting body.

On the whole, my reaction to SB 190 and all of the regulations that are proposed here was quite favorable, one of support and relief. Support because I think most people cannot object to the idea of strengthening the educational programs and preventing fraud and so on; and relief because, frankly, it's about time. I do, however, have three serious concerns about SB 190. I will admit they may not be parallel to some of the concerns of others here this morning. I'm not even sure they can be addressed at this late date. But, I would hope that the Commission would give them serious consideration, at least the first two.

My first concern is about potentially large duplication of effort. I'm referring, in this case, to the Legislative Digest which is included in Enclosure 1, which requires the Commission to undertake an evaluation of other accrediting agencies around the United States. I think it's laudable that the State of California would seek to avoid the expense and time of visiting and reviewing every California college when accreditation may safely stand in the place of State approval. There is an excess of accrediting activity already, and anything the State can do to eliminate extra strain on the colleges is more than welcome. However, the proposal to review the various accrediting agencies now and every five years, I think, sets a dangerous precedent. It will shift increasing burden from the individual colleges to the associations.

Valid accrediting associations already are reviewed and approved by the Department of Education and the Council on Postsecondary Accreditation (COPA), on a regular and thorough basis. I would ask why California can not accept a DOE or COPA criteria in lieu of a lengthy and duplicative process on which it now seems to be embarking? Many states around the country already accept accreditation by recognized accrediting bodies as a substitute for state approval, precisely because DOE and COPA already have a thorough review process. And again, I would ask why California couldn't do the same?

To carry this procedure to an extreme, I could see the day when accrediting associations all over the country, including WASC are flooded by requests for information from every state in the country. Surely, there has to be a better and more economical way. I would ask the Commission to review this provision in and the law to see if there isn't some way to rely on the same and simpler system used in most other states in this country.

Having mentioned WASC, that brings me to my second concern: that is, the reference in Enclosure 2, Section 94303, which exempts WASC-accredited schools. I must say that I hosted three regional visits at my previous schools and chaired visits for two regional associations, and as I have mentioned, chaired 10 visits for NASAD. While granting the utmost respect for to my colleagues at WASC, I must say that there is nothing in my past experience that tells me that WASC is the only agency that knows what it's doing in accreditation. I get worried when I see legislation that grants one organization, on what basis we are not told, a near monopoly on accreditation in the state of California. I am concerned not because of WASC itself, which in fact I think does a very good job, but because of the underlying principles involved. Many other accrediting agencies do an admirable job of reviewing colleges and universities. Why are they presumed to be of lesser quality until proven worthy? Why is WASC presumed to know more from the start? Does the State have, for instance, only one view of accreditation in California -- that which is filtered by WASC?

Accreditation is supposed to be a voluntary process. And yet, under this law, I can see that colleges might be forced to choose between WASC accreditation or new state regulations, which in some instances are much tougher than WASC has. This would not be a problem often, but, for example, it could crop up. At this moment, a few of the California schools are -- excuse me, a few schools in WASC are, at this moment, objecting strenuously to a WASC standard which we believe would alter the essential nature of our undergraduate degree programs. If we are not successful in our argument with WASC, we either have the choice of agreeing, and then changing the whole nature of our undergraduate curriculum, or we could then voluntarily withdraw from WASC and be subjected to all of these regulations which probably weren't intended to apply to a large number of the law schools in the first place.

As you can see, this is a no win choice for certain institutions, and one which seriously alters the nature of the word voluntary. I would ask the Commission to examine this provision of the law carefully. I think it's dangerous and may have consequences far beyond those that you could imagine today. I would ask you not to make other accrediting agencies jump through hoops that you are prepared to ask WASC to jump through as well. I must emphasize I say this with all due respect for WASC, because I think it is an awfully good organization. I think it's the underlying principle here which really sets up a very dangerous situation. This is not a licensing situation, as it is for law or health, or certain situations like that, and I think it seems to place WASC in a position which appears to put it into a monopolistic type of setting.

Finally, my third point is really just two requests for clarification in the actual detailed regulations in Enclosure 1. I would ask for a little bit of clarity on these two points: (1) tuition -- and these have both been brought up, one has been brought up before already -- just the previous speaker was speaking about tuition, and I would concur with that. In part 210A1 and 210C, you seem to imply, although I don't think that was what was intended, that schools need to tell students in advance of the full cost of their education. Again, if you concede that a four-year school might wish to voluntarily withdraw from WASC and the regulations imply that it has to tell what the cost of education is going to be for four years in a row. I think the words need to be picked very carefully so that it lets people understand what their cost is for a particular set time, such as a year or a semester or something of that sort. I could understand the need to protect the students from outrageous price increases and so on. But, projecting far in advance for a lot of non-profit schools is very, very difficult. I'd ask you to look at the language carefully.

And the second issue is about refund policies, part 210G2. This gives substantial refunds to students up to 50 percent of the way through the semester. I'm not sure what the practice is for some of the trade and technical schools in the state of California. I do know most of the schools accredited by WASC, and most of the colleges I'm familiar with, have refund policies that are rather rapid, and they disappear after about the first four weeks of the semester. This is because we're dealing, first of all, with 15-week semesters. Secondly, we're dealing with a situation, as I like to tell my Board of Trustees, where on September 1 we have essentially spent 95 percent of our money already.

The moment we open, we are done. We have contracted with our faculty. If students withdraw from classes, we don't save any faculty salaries. We save virtually nothing when a student withdraws, and if you grant to a lot of these institutions students' rights to withdraw up to 50 percent of the way through the semester, a lot of the non-profit institutions which barely balance their budgets every year are going to start losing money. I worry about that, and I just wonder why it has to be such a serious stretched out refund policy. Or, perhaps, if there should not be a different refund policy for institutions offering different length programs.

That is the end of my remarks. Thank you.

William Haldeman: Thank you very much, Mr. Barrett. Any questions?

William Haldeman: The issue about accreditation is one the Commission is studying, and maybe we should talk further with you about that.

Richard Crews, Columbia Pacific University

I am Richard Crews. I am president of Columbia Pacific University, and although I've learned from years of teaching it's not a good idea to make handouts at the beginning of the class, I have copies of three things here. One is my statement; another is a legal memorandum; and the other is copies of three reference documents. I have more than four copies, and I would be happy to make those available to anyone that -- perhaps as you advise me.

William Haldeman: From here on, as long as we have copies, you're at liberty to hand them out at your pleasure.

I also understand the microphone is not working. Is that correct?

William Haldeman: That's right.

I will read from the statement that you have in front of you. I'll extrapolate a bit, I think. Also, I owe you a little bit of an apology because it was rather hurriedly put together, and we'll do the best we can.

I appreciate the opportunity to appear before this body today and discuss the proposed regulations for private degree-granting institutions. A legal memorandum addressing constitutional, statutory and rule-making deficiencies of the proposed regulations is attached. That was prepared, by the way, by Mr. Oulahan, and I was pleased to hear that you had a chance to discuss matters with him. Mr. Oulahan is the senior attorney for Middle States Accrediting Association, and also has functioned as a senior attorney for the combined accrediting associations on a number of occasions over the past 30 years, most notably in 1966 with the Marjorie Webster case, which we will refer to here.

Several years ago, I served as chairman of a special committee, empaneled by the California Legislature, and prepared recommendations for amendments to the Private Postsecondary Act of 1977. I would also comment, for those of you who are not aware of that, that Bill Haldeman, our chairman this morning, was the representative of CPEC assigned to serve with that committee. So, he and I have worked together and had the chance to work together closely at that time. That was 1983-84.

The legislation, as amended in 1984, provided California students with an extended vista for higher education. In particular, those former students and adults who wanted to complete a university education while continuing to work in their jobs, now had a means to do that. Diverse and innovative educational delivery systems were provided by approximately 70 fully approved institutions throughout the state, somewhat more than that at that time, and served about 15,000 students. The proposed regulations we are considering today would severely curtail, if not end, the public purpose enunciated in 1977 and developed in 1984.

Since 1986, Columbia Pacific University (CPU) has functioned with full institutional approval under California Education Code Section 94310.2. I would also say, peripherally, that Mr. Haldeman was an observer on our approval visit over a period of several months in 1986. So, he was also familiar with our institution at that time. We've undergone some changes, but at least you have a good background basis for understanding our philosophy and basis of function. The university -- I think this is most significant -- that the university believed at that time and for several years thereafter that State approval was going to provide a reasonable alternative to regional accreditation. The language of the 1984 legislation expressed the intent of the Legislature to provide for a State-operated review process which would establish a State certification of curriculum, facilities, and academic objectives consistent in quality and comparable to those of regionally accredited institutions. This was expected to create a viable, parallel alternative to the accreditation process.

There were a number of reasons for this expectation. The wording of antecedent legislation in 1977 explicitly directed the Superintendent of Public Instruction to seek reciprocal interstate and national recognition. Historical parallels and precedents, most notably in New York state but de facto for numerous state university systems, supported this expectation. In other words, there were and are, in fact, a number of state university systems that function parallel to accreditation -- to regional accreditation. The considered judgment of knowledgeable authorities, for example, the then director of the Office of Private Postsecondary Education, John Peterson, among others, led us to expect that the California approval process would in time be recognized by the U.S. Secretary of Education. That has not happened.

There are several reasons why this development, had it occurred, would have been of benefit to California higher education. It could have provided an alternative path for new and innovative patterns of educational delivery without diminishing the accrediting associations' opportunity to maintain their traditional majority rule of like-minded institutions. The importance of experimentation and innovation in education is frequently proclaimed in theory, but all too often curtailed in practice. Mutually respectful coexistence of approval and accreditation seemed to offer a resolution of possible conflicts between innovation and tradition.

Recognition of the full approval process also offered a unique advantage for accredited institutions and accrediting associations which, at least since 1966, the Marjorie Webster case, have faced the possible threat of anti-trust action because of restraint of trade. The recent and continuing investigation by the U.S. Department of Justice regarding financial aid and admission, so-called, agreements among accredited institutions sounds a renewed and ominous warning. Anyone who reads the *Chronicle of Higher Education* is familiar with the machinations in those areas, very much aware of this. On the positive side, these and other developments provide a potent reminder of the need for accredited institutions and accrediting associations to permit, even to respect and defend, the rights of alternative forms of educational delivery. Our nation, and increasingly our world, have come to realize that the voice of dissent, the voice of innovation, the voice of each new constituency seeking to be heard, deserve our respectful protection for the sake of all of our freedoms.

In addition, full approval, as a responsible alternative to accreditation, offered advantages to accreditation associations if only as a sanctuary for programs serving special populations. Such groups as the elderly, mid-career profession changers, the sensory and motor handicapped, and the geographically isolated present special challenges for higher education. They deserve aggressive, innovative approaches. Institutions that reach out to them, even ones that present unusual profiles, deserve some indulgence as, at least, the conscience, if not also, potentially, the leading edge and future promise of the education industry. Approval was designed to be, and could have been a responsible forum for supervising institutions serving non-traditional students in innovative ways.

Finally, in a world percolating, if not seething, with rapid changes and rushing forward, if not careening, with progress, it behooves education authorities to support and guide interesting and responsible innovations in their field. Constrictive thinking akin to digging in one's heels and trying to stuff new developments into previously established molds is fatal. Higher education is clearly breaking away from, and increasingly functioning outside of, traditional academia in many ways: in the corporate world, for example, in the form of executive seminars and other activities; in professional circles, as continuing education for relicensure; in popular acquaintanceship with the leading edges of computer and other technology; in new forums for understanding international communications and finances; in new possibilities and links for international cooperation; and elsewhere. Accreditation authorities should have supported and defended the responsible independence of the California State approval process as one alternative licensure for higher education, outside of traditional accreditation but with visible and legal bounds.

However, history has not taken this course. In the discussion and debate surrounding SB 190, it has become clear that the regional accrediting agency regards any institution not affiliated with it through membership as inferior, bogus, fraudulent. For example, the Executive Secretary of WASC's Senior Colleges Commission claimed in early 1989 that California unaccredited institutions were "ignored by the community of accredited institutions" and even "held in contempt" by that community. That's a quote from *The Tangled Thicket*. The same attitude has been expressed by some members of your Commission.

Let me deal at the outset with the false claims and charges leveled against CPU over the past few years. Without stooping to a mud-slinging contest, I will give you an example. Last summer, ...has since visited our offices and has admitted that the gross misrepresentation about CPU's degree-granting standard was cooked up by the program's producers. CPU informed the Commission staff of these misrepresentations last summer. That's the letter dated August 15, which is attached. This did not inhibit a CPEC staff member from repeating the false charges to a reporter from the Orange County Register this Spring, the May 23 article which is attached. Indeed, in April 1989, this CPEC staff had distributed to PROANDI members, whatever that is, other press clippings, some of which attacked CPU, as part of CPEC's effort to develop "greater public awareness" of an alleged lack of oversight of non-accredited colleges and universities.

We have quite a number of objections to the proposed regulations, and I will outline them. I think we also have some problems, as we've discussed before, with the process which has gone on in the development of legislation and public hearings. I was astounded to discover about two weeks ago, for example, through the Advocate General's Office that twice in 1989 the Office of Administrative Law communicated with CPEC with specific objections to the regulations that were then being aired.

William Haldeman: No, that is wrong information.

Audience: PPED. It was PPED.

William Haldeman: Yes, I'm sorry. They communicated with PPED with objections to the regulations then. And it was PPED's regulations, that they are still trying to get through from four to five years ago when we worked on those standards. They're still trying to get those regulations accepted by OAL, and it was that objection on those past regulations.

Thank you for that clarification, and I apologize for the misstatement. Is it your understanding, and am I to understand at this point, that those objections of the Office of Administrative Law do not apply or are not relevant to the current . . . .

William Haldeman: That is right.

Thank you. I won't repeat the substantive legal infirmities of the proposed regulations as shown in the attached legal memorandum. Let me deal with some of the major deficiencies from the practical and administrative viewpoint of a university president. Perhaps, my observations will uncover for you Commission members, who are institutional faculty and administrators, some matters you may have overlooked.

First, discrimination by exemption: I don't understand, fully, the concept of equal protection of the law. I do know that California courts struck down a statute which treated lawyer lobbyists differently from lay lobbyists. I call that discrimination. For example, WASC-accredited institutions are almost entirely exempt from the proposed regulations because of exemptions spelled out in the statute. Under these exemptions, WASC-accredited institutions don't lose any right to enforce student contracts, to retain student fees, or to have their approval continued without revocation.

I would appreciate it, Bill, as we go along if you would interrupt me, or anyone if you have any questions or, particularly, if you have corrections of these remarks. As I said, we felt somewhat hurried in packing them together, and I certainly do not want to convey any misinformation or misimpressions.

William Haldeman: I will if we have questions.

Thank you very much.

The WASC-accredited institutions, also, do not have to pay their fair share of funds to the Private Postsecondary and Vocational Education Administrative Fund. They do not have to secure a statutory surety bond protecting students. They do not have to have changes in ownership or shifts in control approved by the new Council. They do not have to face a possible 60-day suspension of their licenses by the new Council. They do not have to have any complaint against them referred to the Attorney General for action. WASC itself is the deliberating body to deal with complaints. And they don't have to suffer sanctions for violation of standards which are applicable to all other institutions. In effect, WASC-accredited institutions are exempt from regulation by the new Council.

I read these statutory, and thereby rulemaking, exemptions as, in the first place, giving the new Council no effective control over WASC-accredited institutions; releasing WASC-accredited institutions from the financial burdens placed on non-WASC-accredited institutions; denying students of WASC-accredited institutions certain consumer rights, granted by statute, to non-accredited institutions; and, most seriously, converting WASC into a quasi-governmental body, taking over the regulatory functions of PPED and CPEC. I'm going to skip along through here.

William Haldeman: Would you repeat the last sentence? I didn't under . . . there was a reference to CPEC.

You have . . . it would be on page 7, at the bottom, of my remarks. That the statutory and rulemaking functions effectively convert WASC into a quasi-governmental body taking over the regulatory functions formerly of PPED and which CPEC has also served. Is that a fair statement?

William Haldeman: The observation of our regulatory functions is, I guess, a bit overstated. Although, obviously, that's in a sense what we're going through now. This is a one-time affair with the law. I think it probably will not be repeated, whether we're successful or not.

Let me read the portion of this that relates to corporation law:

The regulations, as we now understand they stand, are contrary to and attempt to override provisions of California law relating to proprietary and non-profit corporations. These overrides occur in Rule 202(a)-(b), requiring five, as opposed to three, directors or trustees, overlapping terms, which would require having at least five to seven directors to accomplish, and requiring 20 percent of the directors to be absolutely independent. Rule 120(d) requires approval by the new Council for any "shift in financial control" of more than 25 percent, with Council authority reserved to hold up such clearance beyond 15 days. This requirement is not imposed by statute upon WASC-accredited institutions and other types of non-profit corporations.

The question of the guarantee of fiscal responsibility by members of the board also runs counter to corporate law. I will read that in detail if there is any reason to.

William Haldeman: The number of that, if you could identify the number . . . .

On page 9, my number 4. Rule 207 requires that an institution "shall guarantee on the authority of its board the assets sufficient to insure that all students admitted to its degree programs shall have a reasonable opportunity to complete their program and obtain their degree."

This guarantee clearly involves a personal guarantee by the board members. It is unrestricted and never-ending. It violates current corporate law, which does not require a director to guarantee or pay corporation debts unless he or she has some direct personal involvement. No sane person would become a board member with this sword of Damocles hanging his or her head. And then, of course, it doesn't apply to WASC-accredited institutions.

To require the chief academic officer,who could be the president of an institution, to hold specified degrees matching the highest degree of his faculty is pure mischief. This is the burden of Rule 208, which should be set aside.

The status as a university: My institution was established as a university and has maintained that designation, including obtaining full institutional approval in 1986, and could potentially lose that status according to these regulations. I note particularly Rule 100(d). The regulations seek to enforce on California higher education the concept of a "collegiate university", such as Oxford or Cambridge. Their U.S. counterparts are the California public universities. In the United Kingdom, there developed in the 19th century the so-called "civic" or "red brick" universities. That also happened in this country, including California. The latter class meet the honorable and historical definition of the university as a corporation for the conservation, dissemination, and advancement of learning, consisting of a group of schools, faculties, or colleges. CPU, my institution, meets that description. Many of them, including Oxford and Cambridge, would not qualify under the Rule 100(d).

Rule 100(d) substitutes a bureaucratic definition of a university based on the model of large California institutions. It requires three colleges, with one granting a bachelor's degree, a school granting graduates degrees in the arts and sciences, and a third granting professional graduate degrees.

Rule 100G does not permit an adjunct faculty member to be included within the definition of faculty. The rule appears to be an attempt to reduce adjunct faculties in non-WASC-accredited institutions to their potential financial and educational detriment. Most medium-sized institutions, including community colleges, use adjunct faculty together with a core of full-time faculty. Community colleges would be exempt from this requirement by virtue of WASC-accreditation.

I would like to enter the rest of this statement into the record without necessarily reading it.

William Haldeman: That's fine. That certainly will be done, Dr. Crews. Any other points that you would like to emphasize, though, for the benefit of those in your audience, you can at least enumerate to give it the whole shot.

All right. Well, as I have mentioned previously, including at the beginning of this meeting, I have some problems with the way the hearings were conducted from time to time. I understand, courtesy once again of the Advocate General's insight into the correspondence with the Office of Administrative Law, that any objection raised at a public hearing must be answered in writing. There were certainly many times in the past year that, as far as I knew, there was no response to objections that were raised.

I believe, I truly believe, that all of us here, and everyone involved in this process, is (sic) concerned about the quality of higher education. That, I think, is our highest goal, and the goal which defines all of our activities. Our backgrounds vary. Our experiences with education vary, both administration and the curriculum development and faculty aspects. I think that with that overriding value of establishing and maintaining quality in higher education it is important for us to take a close look at the role of innovation. Traditional institutions and traditional ways of going about educating have their merit. They maintain the continuity of cultural flow. They maintain standards against which other processes can be tested.

However, they cannot be the last word in education, or development comes to a halt. It is, at any given point in time, difficult or impossible to tell which innovative, creative modalities that are being suggested, being tried out, will be the baby and which will be the bath water in the future. And it is within the traditions of academia to allow and facilitate a broad spectrum of experimentation. I think it's often said, for example, that legal people, legislators, looking at traditional academia from outside are astounded to see the tolerance for antisocial pranks, for diversity of lifestyles, for even drug use. Certainly, for political allegiances. And within academia there is a respect for innovation and creative thinking which sometimes pushes observers from the outside to the brink of disbelief.

In constructing regulations, whether they be within WASC or outside of WASC, I think it's very important for the future of education in California and elsewhere for that respect, for tolerance and innovation to be carried forward, to be more than allowed, to be respected and encouraged. That was the explicit intent of the 1977 legislation. It was reiterated in 1984, and I think it should be reiterated and advanced in our present efforts.

Thank you.

William Haldeman: It may be appropriate to comment on just a couple issues that were brought up here . . . . One is, in particular, the process. We are not engaging in a lot of dialogue particularly so that as many as possible have an opportunity to speak. We've not used time limits today because there are not that many to speak. You've noticed that, I'm sure. But, there will be responses to the recommendations and the objections that are presented here today. I think a memo that I circulated to some of you (and I hope most of you have had a chance at that memo) demonstrates a kind of beginning at an informal information collecting, working with working groups. We did not formalize the process or respond to the input at that point but tried to plug it into the draft. This is becoming more formal, and your testimony, written and a transcript, will be a part of the record, a part of the file that goes to the Council, along with a revised set of draft regulations. We're still debating on just how much we respond in writing outside of that process to you individuals. We're inclined not to get bogged down yet on that because we still have an awful lot of work to do in writing draft regulations, and getting a file that gives our initial reasons. The public needs those initial reasons as well as OAL and the new Council needs them. We're doing our best to be responsive and provide an open public process, and part of that is today, and part of it is still to come.

One of the things I'd like to emphasize now is that if you haven't gotten your name on the list at the back of the room, please do so. Because it's you participants now that will be the primary mailing list for subsequent revisions of these regulations. We still have a couple more people on our list, and then a couple who have submitted requests to speak.

Incorporated from Dr. Crews' written testimony:

Rule 213(d) - (f) will prevent CPU from according experiential credit for master's and Ph.D. degrees. Further, no credits may be transferred to a California institution from any other institution for a Ph.D. degree.

CPU's correspondence instruction leading to a Ph.D. degree will be terminated by Rule 217(e). Granting any degrees which "imply preparation for licensure" in professions administered by the State Board of Behavioral Science Examiners is barred for institutions with correspondence or distance learning types of instruction [Rule 217(d)].

Both of these sections would deprive CPU of the degree-granting authority which it now has, and has had in the past. In effect, CPU is being denied the right to educate (i.e., to do business), a right which is not being denied to classroom instruction institutions. If the latter can issue master's and Ph.D. degrees, we should be allowed the same privilege.

Up until December 31 of this year, fully approved institutions, like CPU have a right to a hearing on the record before their licenses -- or approval -- can be revoked or suspended. This is because the State Department of Education is covered by the State's Administrative Procedure Act. As of January 1, 1991, that right will vanish because the new Council will not be part of the Department of Education. This legislative maneuver is not readily apparent unless you look at the statute.

I am informed the loss of the hearing right was intentional. The Commission should correct this hidden denial of due process in its regulations and seek an amendment to accomplish this in SB 194 -- which, unlike SB 190, specifically denies the hearing right. This entire matter does not speak well for the legislative and rulemaking process involved in revising California education laws.

With all due respect to the legislative and executive personnel who drafted and enacted SB 190 and SB 194 and have now drafted the proposed regulations, I suggest to the Commission that, after a thorough review of the statutes in the California Education Code, these conclusions are inescapable:

A. The statutes were drafted without full disclosure to, or knowledge by, the Legislature as to the meaning and consequences of the legislation.

B. The drafters were well aware of what was involved. For example, the effect of the provision which bars a non-WASC accredited institution from granting Ph.D. degrees by correspondence is devastating to many institutions, both public and private.

C. The legal problems arising out of, or lurking in, the language of the statutes and proposed regulations should be identified and eradicated by a broad-spectrum group of educators appointed by the Governor, in the name of educational advancement and the public interest.

D. Recommendations for new Education Code legislation with full recognition of all worthy institutions, regardless of accreditation status, should be put forward to both branches of government. Neither SB 190 nor 194, implemented by the proposed rules, meet this high standard.

E. Meanwhile, new regulations to enforce the present statute, enacted in 1977 and amended in 1984, are needed on an expedited basis, pending *new* legislation designed to promote the educational opportunities in California for all of our constituencies.

Chia Heng, Sangha & Laity Training Programs

I am Chia, from Sangha & Leity Training Programs. I have a few questions that revolve around . . . Immigration and Naturalization Service, because -- I'd say -- over 90 percent of the students in this particular training program are overseas students. So, we're dealing with INS. We're dealing with issuing M-1's. We have a responsibility not only to you but also to INS, and so, we're dealing with two areas of government, and we try to meet both of your needs. What I'm concerned about . . . .

William Haldeman: May I just be sure of your -- are you talking of postsecondary . . . ?

Postsecondary, yeah, sure. You know, your requirements, and also meeting INS. Because, we also, if they want to come check our student files, and they have, they can come, and so we have to have certain things in there to show that the student is enrolled; to show that the student is really taking the course; getting grades; and so on. Okay, they have their own requirements. We've been dealing with them for many years now. I don't know a lot about them, but I know a little bit, as time goes on.

Our concern on page 52 on this bigger one, the testing. Is it the case -- my question would be: after we go through our application procedure, we send the applicant the application forms; we try to get at least two references; we try to get past school history, and so on. My concern would be when do we test them. If we're saying that they can't be tested on their own. If, after we're satisfied, let's say, that the student has some potential to be in our program, at that point, we would, let's say, accept them. And then, the next point is we would issue them the M-1 that they'll take to the American Consulate in their country.

Once they have that M-1, and if they get an approval, then they come. They're basically in. You know what I mean, they're in. Now, at that point, if all of a sudden we say we'll issue the test here, just what if -- I'm not saying this would happen -- what if they didn't pass "our test." What do we do? That's number one.

Number two, I have a file, although small, with the same topic, basically. On page 45, Notice of Student Rights, and on page 48, also with refunding, and so on. I have a concern about number 2: you have the right to stop school at any time and receive a refund for the part of the course not taken. Of course, a student has that right. But, again, I have a question if we already, in our catalog, show refund policy if a student is -- particularly with a program there is a certain commitment to you wanting to come. It's not your regular kind of program. It's a commitment too, for some people to join the order. My question is -- like the man said this morning, the last person -- we want to encourage people to try to stay. And that means there has to be periods of adjustment, and so on.

And, again, dealing with INS, and I have to go to page 48, with that notice of cancellation, you're saying we have to give them back their money in 10 days. Well, I know for a fact that there are students that are coming from abroad, and because of the situation in their countries, some will come with the intent of staying and never going home. And we've had that case. And INS knows about it, and we know about it. . . . it's coming in countries like Hong Kong. It's coming in countries like the mainland.

Now, you don't want to consider everyone to be someone that's a potential person who's going to skip the country, but according to INS's eyes, that's how they view them. I mean,that's the name of the game. Especially from certain countries that they know are having problems. So, for example, in the past we've always said that we will return the money, but upon notice that they've returned to their home. Because, otherwise, it would be very easy to give them back their money, and then they stay in the country, and they're skipping out on INS. You see, when they go to the Consulate in their country, to INS, they go to the American Consulate, many of the Consulates will look at the school's track record. They want to know when a student comes here, has the student come home. And if they don't see students coming home, then the next person who wants to come here might not be able to come in. And, we've had that problem. I've done this for years now.

Some countries are not having problems with that. They're not worried their people won't home. The countries aren't having big problems. Other countries are, and so the American Consulates, like that last stop before they come here. So, there is that kind of problem.

William Haldeman: So, the key problem here is the requirement that you give the money back to them within 10 days?

That would be one. No, one part here says 10 days. The other part gives us 30 days if they finish the program, and you owe them money. Page 48 says, let me see, "if you cancel any payment you have made, any negotiable instrument signed by you shall be returned to you within 10 days following the school's receipt of your cancellation notice."

Right. I'm just saying, I'm bringing it up. I'm not saying, then again, most of the students in our school are on scholarship, because our intention is to train them and help them out. We're not in for their money. But, I'm just bringing this up to you. Maybe other schools are not in that position. But, we, as I said, we're dealing with INS, and we feel it's important to protect their interests. We like to work with them. And, I know that this is an issue. I know that people will come here.

Now, students have a right, once they're in a school, if they want to transfer to another school. If they've been there for a certain amount of time, they can transfer. That's their right, and that's okay. But, then there will be other students who don't have any intention of going home. And, for that purpose, it can get a little hairy. I just wanted to bring that up.

William Haldeman: That's good to know, because there's a lot I don't know about this immigration business.

We've dealt with it for years. We've had one girl, from Mainland, several years ago, before the . . . who just skipped out on her country. That was her intention from the beginning, but if you looked at everything she wrote and everything, you wouldn't have known.

And, as I said, I'm concerned about the testing, because when do we do it? When they get -- as I said, more than 90 percent of them are coming from overseas.

William Haldeman: Without any kind of screening before?

Some of them are. Some of them are. We have a temple in Taiwan, for example. Some of our nuns are over there. They try their best to do a real good screening. They really do, and that's helpful. But, we get students from all over, and -- I mean -- we could offer a test there, if that's okay with you, but then we wouldn't be offering the test on our home. I don't know how you feel about that. You see, if that's okay with you, we could have a test given over there if we have people to do it. But, I don't know if that's part of your policy.

William Haldeman: No, we don't have anything on that yet. I was just thinking it might be advisable, rather than trying to wrestle with this problem, because this problem is part -- it's a generic problem for anybody, any institution that is admitting students from overseas.

That's basically our whole student -- is from overseas.

William Haldeman: It might be well for you to have some test that is, at least, comparable to your ATB test, so that you have a pretty good sense of whether or not they're going to pass when they get over here. Then not worry so much about the ability to benefit from screening . . . .

You see, that wouldn't matter if a crew came out to look at us and they say, "Where's your test?" and we say, "It's being done across the sea." That wouldn't cause a problem.

William Haldeman: Yes, I think it would.

That's why I bring it up.

William Haldeman: I guess what I'm saying is that -- yes, that's what I was saying is have two forms for the same test. I'm not sure that's quite a solution for it either.

I know you're not here to answer questions, but I have to throw it out, because I'm just sitting here letting this all go through, and . . . .

William Haldeman: Some of these things we have yet to deal with in regulations. So, it's good to be aware of them.

That's all we do. Also, I do have a question that maybe you can answer enough. On page 48, what are the two cancellation forms. It says, under 94317.5, you're showing one, I see one here, but are we missing the second one? Or was that the second one on page 45?

William Haldeman: You get one in the field, and you get one the first day of school.

The same notice?

William Haldeman: It's the same form.

It's the same form. Okay, that clarifies it. That's all I have.

William Haldeman: Any others? Anyone else feel inspired? We will close the hearing then.

Hsien Heng, Dharma Realm Buddhist University

William Haldeman: Is it Chia Heng?

Chia Heng: It's C-H-A. Um, Heng Hsein is going to talk for the school.

William Haldeman: Okay, sometime, I will learn how to pronounce that.

Chia Heng: Chinese.

William Haldeman: I understand.

Chia Heng: No problem.

William Haldeman: But, I'm just not there yet. Hsein? And Dharma Realm? Okay. Maybe you would announce that one more time, slowly, for our record?

My voice is not very strong.

William Haldeman: Our microphone is up here, on the edge, too. So, if you could speak in this direction.

My name is Hsein Heng, and I'm from Dharma Realm Buddhist University. We're in Mendocino County. Degree-granting, but we also, in the same campus area, have a vocational education training program which Chia was listed for speaking on.

Because of the train of legislation that's being formulated, it looks like some of the things we might have said would not apply, now, to our particular type of school. So, I'd like to say that I think the

State is being very responsive to the input that I've heard, at least . . . hearing, until some things are really being taken care of to satisfy people's worries, problems.

But, I have . . . more questions about the faculty section, which is in Regulation . . . that's Section 205. One, also, concerns Section 100, where we have definitions. Because this is the section where it defines full-time faculty, full-time resident faculty. It says, on page 14, under 100 Section H, it gives the numbers, the calculations -- well, maybe we should . . . it might help a little bit, it says that . . . Section H, "Full-time faculty member means one employed by an institution to provide at least 12 hours of instruction per week at the undergraduate level; or at least nine hours of instruction at the graduate level; or the equivalent in direct educational services." But then, when you get to Section 205 -- this is kind of technical, but it makes a difference to the school -- it's on page 17, it's under the Section 3, but that started on page 16. It's the start of column 1 on page 17, after the indented section. It says, "As used in A1 and 2, number of full-time-equivalent faculty means the number resulting from dividing by 12 for faculty instructing at the undergraduate level, or by nine for faculty instructing at the graduate level, the average total number of actual faculty instructional hours per week." Okay.

That's not really the same definition. First of all, that important phrase "or the equivalent in direct educational services" isn't there. For example, supervising dissertations, supervising independent study, and that kind of thing, which can be more valuable to the student, and it's more labor intensive for the instructor.

William Haldeman: So, it's the absence of that additional or to be equivalent in . . . educational services?

Yes, that's the main thing. My math is not that good to see if making the definition include the number of students makes a difference. In the definition under 100, it doesn't . . . the definition includes doing the division with the number of . . . .

William Haldeman: The . . . faculty member definition is not dependent upon the number of students taught.

But, it's -- I guess that means . . . .

William Haldeman: And, so, neither is the full-time-equivalent definition.

Then, that's something . . . . But, it's the absence of equivalent indirect . . . .

And then, there seems to be a problem of kind of a contradiction between what we've just been looking at under 205, that's this doing this calculation, and then the next section which is . . . go to page 17, . . . the criteria for determining faculty workload. Because there's a lot more involved in the faculty workloads than is brought up under the definitions of full-time faculty. When we're going back to see if -- in a given school -- we have enough full-time faculty. We would expect the full-time faculty -- you know, if they have a full-time workload, that would be the full-time faculty.

But, some of these things that would be taken into account as workload are not included in this very narrow definition by the number of hours you teach, or directly teach, students. You teach in a classroom where you directly teach your students. For example, student advising. Unless that's under the definition of direct education services. Then, there should be something that says that's okay.

But, there's also the matter that people brought up about if the faculty's required to participate in administration -- well, not administration, but in administrative decisions -- then there's got to be something in their workload that provides them time to do that. For example, committee membership. Maybe a service component. So, maybe, for defining full-time faculty, there should be more flexibility to include a certain percentage of service, maybe a certain percentage of research. And then, a certain percentage of, maybe, advising and -- in addition to the direct teaching of classes.

This workload even allows subject matter preparations to be taken into consideration. Not just how many hours you teach, but how long it takes you to get ready for a particular kind of class. If you're repeating a survey course you've given year after year, you don't have to prepare anything necessarily. Just pick up your materials and go in. If you're developing a new class, that's a different matter. Because, as a lot of people have mentioned, a lot of schools have been using part-time faculty, for economic reasons or because they don't need that many classes by the faculty member in that specialty. So, now, it's going to be difficult for small schools to comply . . . . If it's fair and reasonable, then it would be easy to comply.

That's the main thing that I had on that. There's also page 17 under C. This is an improvement from before. It now allows -- well, maybe I'd better . . . . It says that "faculty shall have graduate academic training degrees and/or professional experience appropriate to their teaching assignment and consistent with institutional purposes." And then it says the highest degree in the academic -- this is from an accredited institution -- that's where their going to have problems if their faculty members don't have degrees from accredited institutions. They have them from unaccredited institutions. It's a primary evidence of appropriate training.

Now we have something very helpful. "But, institutions may accept as a substitute exceptional experience or professional certification for up to 25 percent of the faculty in any one degree program." That's helpful, but I'd like to suggest that this is more important for the academic degrees. I understand -- Mr. Heckman will, maybe, help with this because he's advised our school on this -- that the definition of whether you have a professional degree or an academic degree is right in your degree title. If it's a bachelor degree, but not a bachelor of art, then you're professional. Master, but not master of art, then you're professional. Doctor, rather than doctor of philosophy . . . .

William Haldeman: But, we do not have that defined in our regulations, no.

You don't have -- you don't make the difference. But, I think exceptional experience and professional certification, and . . . with substitution -- I think the percentage should be a lot larger for the professional degree.

William Haldeman: For the professional degree?

It's not necessary to protect the academic aspect of the degree. Then, that'll make it much easier for people to comply with this, too. And faculty members will retain their position.

William Haldeman: Does that directly affect your program?

Oh, definitely. Because we have people with . . . .

William Haldeman: At what level?

. . . .

William Haldeman: Is it a baccalaureate level, or . . .?

Well, we have a -- we do have master of arts academics. We just have to do some shifting. Some faculty members won't be able to teach in programs they are not qualified for. That's what this will mean.

William Haldeman: That's what it's intended for.

Yeah. What I mean is by your standard qualified for. They may be qualified, but if they don't meet your technical definition, however qualified they may be . . . . If the definition approves them -- you get up to your 25 percent, and that's it. But, you may have very, very capable people who just don't -- you know, only 25 percent . . . .

I think, maybe, 50 percent would be good for the professionals.

William Haldeman: . . . .

I wouldn't say 100.

William Haldeman: . . . .

There was something else, before you mentioned that I wanted to -- Oh, yes. I think when it says "the highest degree in the academic discipline," it's not clear to me already. So, maybe you need to make that clearer. It may be clear to everyone else here but me.

But, does that mean if it's a BA program, then your professors should have BAs? Or does that mean they have to have the highest degree offered in the field at all? Because that wouldn't seem to make sense. For example, for a master's program that you'd have to have all Ph.D.-holding faculty, or that you . . . .

William Haldeman: I understand your comment.

Because when I heard this rule of thumb before, what I understood was that for a BA program, your faculty must at least have a BA. And, for a master's -- in our case, it would be bachelor's.

William Haldeman: This is not clear. I would say although I do believe it was intended to be the more rigorous interpretation . . . .

Well, if it is, then I have a question needing Ph.D. for strictly BA.

William Haldeman: I understand, yes.

And, I don't think the University of California qualifies.

William Haldeman: It should be . . . . We'll have to revise that.

I want to say something else which applies in general, if that's possible. This is -- it might apply to vocational and to the degree-granting schools as well. It's a technical matter, but again, it'll make a difference to some. Because I see that in the new Assembly Bill, that's AB 1401, there's some exemptions for schools in different categories. Exemptions and student protection -- I mentioned this before.

William Haldeman: It's very difficult for us to talk about AB 1401 at this point, because it's not law.

I'm thinking that, perhaps, it could apply in various places throughout all of this. Just another category of possible exemption. It's if -- well, this is describing our school, but there could be other schools -- where the school offers a large number of scholarships, either part time or full time or work study programs that are strictly given by the school, and does not participate in any outside financial aid programs, or student loan programs, it would seem that you might be able to calculate a ratio of how many paying students there are versus how many students are given financial aid from the institution itself.

William Haldeman: For what purpose?

For exempting from some of the student protections. For example, if it's a school like that, you don't need to establish this or establish that about your school.

William Haldeman: It's a possibility. There's other ways of also exempting certain students who -- I believe 1401 deals with exemptions from the placement ratio by declaration on the part of the school that the program is, in fact, not intended to lead toward an occupational position.

That might be enough in one case, but for degree-granting -- see, I don't know how it's going to apply to all the different sections, but I'm speaking especially for degree-granting, although it might apply to vocational as well. If the school is obviously giving more than it's taking in that way, which could be established very factually by how much financial aid do they provide the students, how much do they take in in terms of fees. If it's above a certain ratio, which the State could establish, then -- and the school is not participating in those outside financial aid programs, it's just helping the students itself, over the loan program, then it would seem to me that that school could come under a special exemption for the things aimed at student protection on the matter of financial aid. Or aimed at State protection on the matter of financial aid.

William Haldeman: By and large, the exemptions in 1401 will solve that problem.

Anyway?

William Haldeman: Yes.

Because of other calculations. I didn't see that particular category.

William Haldeman: Well, maybe I'm sorry I said that (re: AB 1401). In any case, it's a point.

If it says it, that's all right . . . .

William Haldeman: We'll have to wait untill that becomes law.

That's all.

William Haldeman: Thank you.

Diane Davis, Committee on Dental Auxiliaries of the State Department of Consumer Affairs

My name is Diane Davis. I'm the chairperson of Committee on Dental Auxiliaries of the State Department of Consumer Affairs.

We are concerned with the proposed regulations in Appendix C for non-degree-granting private, postsecondary educational institutions in that they may result in duplication of effort as they attempt to register dental assisting educational programs in California. Section 1070 and 1070.1 of the regulations of the Board of Dental Examiners provides for the approval of the RBA educational programs whose graduates are then eligible to take the State licensure examination for the registered dental assistants. The Board of Dental Examiners has delegated to the Committee on Dental Auxiliaries this curriculum review, site evaluation, and reporting function.

There are currently some 75 such educational programs in California, approximately one-half of which are subject to this . . . . The Board and the Committee have developed policies and guidelines for this application, review, and approval function, which have worked and are working very effectively to assure students of these institutions a high-quality education. Basically, they cover all the items mentioned in Appendix C. The Committee has been able to provide this service effectively and efficiently and economically, and we are not sure how the new regulations would impact on this program. We would like to talk or meet with you on this matter.

William Haldeman: Let's do that. I'm not sure either. There is in the legislation some provision for cooperative arrangements between the Council and the licensing boards in Consumer Affairs.

Thank you.

John Emanuel, Western Graduate School of Psychology

I wanted to present. I came in a little late.

William Haldeman: Can you fill out a form after you're done? You may certainly speak, but we just want to have your name on the record.

Just put it on the . . . .

William Haldeman: For the record, for the recording, if you would announce your name and organization?

My name is John Emanuel. I am President of Western Graduate School of Psychology in Palo Alto.

I'd like to describe our program and school in general and tell you about our concerns from what we see in the draft. We're a very small school. We have something less than 50 students. Most of our students are working professionals in the field who come to us for probably two reasons: the nature and quality of our program; and the fact that our classes are at 4:30 in the afternoon and 7:30 in the evening -- allowing them to work and attend school at the same time.

We have an excellent quality of students. Several of our people are heads of departments where they're working. Some of them are teaching in accredited schools. Just truly exceptional people. We have a number of people who transferred from accredited schools because their needs were not being met where they were, and they are being met with us.

Our largest class that we've ever had is about 15 students in the class. The average is probably about eight students in the class. Everything is classroom structured. We have no external program of any sort.

We have a core faculty of close to 30 people who've taught with us over a period of about 12 years. Not all of them have taught for the entire 12 years, because we would bring in new people at specific times for new courses, or sometimes to replace someone who is unavailable to teach the course. Our faculty would meet any kind of scrutiny that would be put to them. They are all either Ph.D.s or M.D.s. I don't think we've ever had anyone with a lesser degree teaching. They're always specialists in the area of the course that they teach. For example, we just had a course in human sexuality. The person who taught the course has credentials of having taught in several universities, actually worked with the Masters/Johnson Clinic for some period of time, has published in numerous journals, and so on. An outstanding person. The person who teaches our family therapy course is actually -- he's president of the family therapy division of the APA. He's been president of the California Association of Psychologists. He has just an endless line of credentials.

In each instance, when the person is chosen to teach the course, it's in his or her area of specialty. They are practitioners in every instance. I recall when I was in the master's program, my psychopathology teacher said that he had more experience than all of the teachers that he had been taught by at the University of Michigan or Minnesota, someplace, combined. That is, clinical experience.

I'm addressing the fact that having a full-time faculty person doesn't necessarily mean you've got quality people teaching in various areas. In fact, you could imagine what we would be able to do with a full-time faculty staff. First of all, we couldn't exist. With 50 part-time students, it'd be impossible for us to exist. On the other hand, I would stack our faculty up against any faculty from any institution in terms of quality of instruction. We have extremely competent, knowledgeable people in their area of expertise. So, we couldn't live with the full-time faculty requirements as laid out in this draft.

William Haldeman: Where do you find that specified?

In my interpretation . . . on Section 205, paragraph 1 says, "an institution shall be deemed to have a sufficient number of faculty if it's instruction is provided predominantly through classroom instruction, and it maintains a ratio of full-time-equivalent students to full-time-equivalent faculty of not larger than 25:1."

William Haldeman: . . . it's a full time equivalency ratio that we're dealing with there.

Well, I hope I'm misinterpreting that. If I am, I can tell you that a number of other people with similar schools are also misinterpreting it, and it may need some clarification.

Then, in the area of governance, there's a similar reference in that the reference says, on Section 202, paragraph G, in reference to faculty participation in governance. The inference is that they really participate in every part of administration of the school. In our situation, faculty serve on curriculum committees. They serve on admissions committees. They serve on competency examinations. They make recommendations of other faculty people. They're involved in the everyday operation of the school. But, they're not, they would not conform to the verbiage of this paragraph if it were strictly interpreted.

William Haldeman: . . . . If they have to do with faculty evaluation, and student admissions, degree requirements, I assume they have something to say about . . . .

They have input into anything and everything that we do, but it's not a formal input. They can, at their discretion, be a part of the curriculum committee.

William Haldeman: This may require you to formalize it a bit, but I don't think it would require you, from the sound of things, to go beyond your practices.

I wouldn't interpret it that way, and I ask that you consider some kind of language that would take into consideration the kind of program that we're describing to you, or I'm describing to you.

William Haldeman: Excuse me, on that point, could you say just for . . . who is -- let's see, are you full time?

No. None of our people are full time. I'm available full time. -- In general, three people who administrate the program: I'm president; we have an academic vice president; and we have a registrar. None of us work full time. All of us are available as necessary to meet the needs of our people.

William Haldeman: And, what degrees do you offer?

A master's and a Ph.D. I'm not sure what your headshaking means.

William Haldeman: I don't see how. Nobody's there to mind the shop.

Well, you know, the test is what comes out of the grinder. We have not had a graduate fail the licensing examination. Our graduates are working as heads of departments; they're teaching in other schools. The people who come in and teach with us, some of whom -- one is an administrator in a state university who's interested in talking with us about tying our program into their program for their master's people. We have several people on our staff who are on clinical staff at Stanford University. We have some who teach at Notre Dame College. It's being done. It has been done for 12 years.

William Haldeman: There's nothing here that we've talked about that requires full time at this point.

The other issue I wanted to address is that of the library requirements. As you can see, it would hardly make sense for us to have a full-time librarian on staff. We're 10 minutes from Stanford University. Our students use the Stanford library. We have several thousand books. We have all the journals. We have all the textbooks that we use. We have a small library.

But, for research, for dissertation research, people use the Stanford library. We're working on a computer tie-in with Stanford. Quality education doesn't have to be big, and I think it's important that my views of these regulations are applicable to a school that has 300 to 600 students in a single-purpose school. It does not take into consideration the smaller schools that don't have that kind of enrollment, but still have a quality program.

William Haldeman: On the point of the information specialist, it only requires the regular services, not a full time -- someone at the institution who is responsible, from the institutional standpoint, for locating the resources and insuring that the students have access to them. That's the intention of that. If that's not clear, then we'll need to deal with that.

I think that, again, would need clarification.

These observations are not just mine. I've talked with other people who have similar schools, and they have the same concerns that I have. I guess the main thing that I want to leave with you is if you look at the objectives of this agency, the State, you know, we have two primary goals: one is to protect students. We hope that they'll see the show that they bought the ticket for.

Here's a brief letter that I just received a couple of days ago, because at first it was directed to Dr. Pace, who taught a course in the Borderlines in Pathological Marxism. This woman was at another accredited school, was head of a student group of some kind -- I think the student body group: "Just a note to let you know that this has been one of the most exciting, informative, and useful classes that I have had in graduate school. I wish I had it all on tape or in notes, but I don't. I gave up fussing around in service of sitting back and attempting to integrate your knowledge and information with two borderline clients that I treat. I hope that you are invited back -- he has taught with us several times -- to teach for us again. The quality of your work and your expectations of our class or what may challenge the grad school students like me open their minds and really learn. You teach a different subject, and I'll hope to take it."

And, that's not unusual. This is totally unsolicited. It just happened to be . . . this is my copy of that that was sent to the doctor who taught the course, our academic vice president, and our Registrar. So, I'd say there were two objectives: (1) that the students get what they're entitled to; and (2) that the public gets a commodity that's commensurate with what should be expected coming out of the school.

We're very judicious in that regard. We had a student who was extremely bright. Oh, let me back up: one of the things that we have in our program is clinical case seminar requirement -- three in the master's program, and three in the doctoral program. So that most of the time someone is enrolled with us, they are also taking a clinical case seminar including other students and a practitioner. So their cases are under constant scrutiny. We feel that it's very easy to turn out people who can write good papers, and who can be impressive in conversation. But, that doesn't mean much when you're working with a client in a therapeutic situation. State licensing doesn't clear that.

Now, I started to describe a person who was extremely bright, extremely charismatic. He could fly through a state licensing exam. But, he was a lousy practitioner, and he's no longer in our program. The case seminar isn't a way of clearing out bad people. It's to help them go to their potential. But, in the event that they really don't belong in the field, it's the school's responsibility to see that that doesn't occur. And we're doing that. It would be a gross injustice if schools like ours were forced to stop -- and we would have to. If the way we interpret this is what we'd have to do, we would have to stop operating, and you would take some 50 students and cast them to the wind. They wouldn't be able to get what they have, and you'd be doing a disservice to the community. I say "you" -- it's the plural "you."

William Haldeman: Thank you.

Gary Pabst, More University

My name is Gary Pabst, and I'm counsel for More University in Lafayette. I want to thank your Commission and, really, acknowledge you for the efforts in integrating a broad range of educational institutions under one government set of administrative regulations. Particularly, I'm speaking in this discussion about the degree-granting institutions. Also, I want to acknowledge your openness for engaging with the questions and challenges that you've received, and discussing the philosophical problems and ramifications for divergent kinds of institutions, especially as reflected by Dr. Crews, and also thank you for the opportunity to speak without prior submission or formal remarks.

More University is primarily a research oriented institution. It gives a limited range of non-professional, that is non-service oriented, post-graduate degrees ancillary to its research activities, and the spectrum of experimentation described by Dr. Crews is very, very much what More University seeks to embody. Indeed this spirit of experimentation and research is elemental to some of its degree programs, such as Alternative Lifestyle Studies.

Addressing the regulations themselves, I first wanted to call your attention to Section 100H. Here, I am echoing the concerns of Hsein Heng about full-time faculty members employed by institutions. Two issues of concern about clarification: one was the issue of employment rates -- I'm sorry, I forgot the lady's name. . . . Perhaps here and later in Section 205A, you might use the word "engage" rather than "employ," so that you can cover contractual arrangements that allow use of unpaid faculty who, nevertheless, have some kind of contractual commitment, such as to observe the school standards and so forth, similarly.

The second question about this, about providing at least 12 hours of instruction per week, the question that comes to mind is over what period is that weekly instruction measured. For example, I think even in many accredited institutions, that only run on an academic calendar, you couldn't consider an entire year. You have to define the period of time over which that measurement is made. That's applicable, also, to situations where a lot of instruction is individually tailored or individually oriented.

William Haldeman: What item are you speaking to?

Section 100H . . . .

William Haldeman: That reads "12 hours of instruction per week."

Yes.

William Haldeman: I assume that's an average over a certain period of time, and the period of time is not defined.

Moving to Section 202A, the issue of external policy review or involvement on the Board of Directors, just simply clarification of the terms "financial involvement." Would that preclude somebody who has taken a course, or is taking a course, from the institution, would that preclude a counsel-client relationship? It's not clear exactly what's meant by "financial involvement."

Moving to Section 204A, and again although Dr. Crews, I think, mentioned this point, you have defined the kinds of institutions which can be operated as those whose central focus is that of instruction. That would eliminate institutions who are primarily interested in conducting research but also may wish to give degrees ancillary to their research activities. Secondly, in the second sentence, "demonstration of the relationship of the modes of instruction to the abilities, experiences and needs of the students." This, I'm concerned, is a possible area of hidden standards for review. Also an area of opportunity. The issue that comes to my mind is if there are criteria for determining the accuracy of the relationship of the students to the programs, shouldn't those be spelled out?

It's reminiscent of Section 94319.2 under the act, the ability to benefit test, and perhaps here is an opportunity, under your opportunity to regulate, to explain in more detail "ability to benefit." I'd like to echo the comments of the woman who spoke just before the last person about people who would not have the ability to benefit from traditional educational institutional arrangements. This isn't exactly the case in our situation, but there could be programs, such as associate degree programs, designed for people who wouldn't ordinarily pass those. Here's an opportunity where a regulation could expand on that. If the institution has to demonstrate the appropriateness, what kinds of details have to be provided on qualifications of students, and how exactly is appropriateness demonstrated? All I'm suggesting is that more detail could be provided.

Moving back, again, for a moment to Section 205A, I just want to recapitulate the suggestion of "engage" rather than "employ," and computation of full-time equivalence, defining the period of time over which it's . . . . Under 205C and D, I want to support the comments of Dr. Crews and suggest that here's -- take, for example, an institution that doesn't offer undergraduate degrees. You want to structure a bachelor's degree curriculum perhaps more or less traditionally. But, beyond the undergraduate programs, and separate from -- with all due respect for the lady who spoke from the Behavioral Sciences Accreditation Board -- if we're speaking about non-professional degrees, and postgraduate degrees, this seems to be exactly the place where the non-traditional programs should have their fullest range of opportunity. Here you're using the terms "academic discipline" and "field of instruction," there may be institutions which wish to explore fields of instruction or academic disciplines that don't have places in existing accredited institutions, and so if you're restricted to faculty members who have gotten their degrees in those fields from those accredited institutions, you're out of business.

By the way, I'm wondering if there's a distinction here -- this is the issue of consistency -- between academic discipline or field of instruction, and I realize that they're used in slightly different senses in those two places, but I'm wondering if the same thing is intended?

William Haldeman: I think it is. No, I don't. It's just a question of what should be . . . . It is a matter for further attention.

Yes. What should be the criteria for faculty where a novel field of research in a non-professional field is being undertaken, and students properly advised are making a knowing choice to engage in a postgraduate degree program in a novel area . . . . Maybe one approach would be one that we use in the area of securities law where the issue is not the inherent value of the securities that you're purchasing or the enterprise that you're purchasing an interest in, but . . . disclosure. And that's the approach that was taken by the Securities and Exchange Commission when it was initially designing our securities laws: We're not going to say what kinds of businesses can be in business, just as long as you make sure that if you're going to sell securities on the market, that you provide a disclosure necessary for the buyer to enter into the enterprise knowing.

William Haldeman: The State has come a long way from that in its education statutes. We were back there in the early '70s. That's what authorization used to be about, just simple disclosure. That was not adequate.

That's clear. Maybe there's a middle ground, or maybe what we should look to are situations where we're not talking about simple undergraduate programs, and we're not talking about professional degree programs. Maybe it requires a different kind of authorization for experimental programs. But, it does seem unduly restrictive to allow programs only where the faculty have -- only where there's been an accredited university . . . an accredited program in that area.

William Haldeman: We've run into it with what we might call "new disciplines," disciplines that are emerging. I think, and it's an important dilemma at that point, the place where we've gotten into trouble is assuming that it's innovative to teach without command of the discipline in a discipline that is a traditional one, that has a history and a body of knowledge. That is not innovative. But, what you're pointing to here is that we do not have provision for emerging disciplines.

That's right.

William Haldeman: Your point's well taken, and maybe I could ask you for a little bit of clarification. You said just to repeat what you said, I think I heard you say teaching of traditional disciplines within the framework of non-traditional disciplines, or did I mishear you?

No, it's not -- this is a personal opinion, and it really probably shouldn't be expressed here at the time I got into it. It's not innovative to teach in a doctoral program in psychology if you have bachelor's in psychology, and that's your only qualification.

William Haldeman: Exactly. Again, if the degree that you're teaching is a degree that is available in accredited institutions, then you ought to be teaching up to the standards of accredited institutions. There's no doubt about that. If you're teaching something that doesn't exist in accredited institutions, and you're trying to create an emerging discipline, then it wouldn't be appropriate to have to have a degree is something that there didn't exist degrees in. So, it may be an open question as to whether or not there are parallel fields that the new emergent discipline relies on.

I'll grant you that there may be a parallel, but there also may be situations in which there isn't such a clear parallel.

William Haldeman: We're getting pretty speculative now, but I think you've made your point.

To move on to Section 211E. I'm sorry, just one brief point again, 208B is the same point as the one you were just addressing. The chief academic officer has to hold the academic degree, let me quote "to the highest degree on the part of the faculty in the institution," and the same point applies.

William Haldeman: That's a problem?

That's only a problem, I guess the same problem, you're back at the same problem . . . . It's not an extra problem; it's the same problem.

On 211E, this is an issue of requirements for entering post-graduate programs where bachelor's degrees are not required. I'm concerned about hidden standards for review. Catalogs must indicate clearly what will be accepted as equivalent accomplishment, and on what evidence admissions' decisions will be based. I suspect that it's not the intention to leave this totally up to the institution. That there may actually be some criteria which would be acceptable, and some which would not. If there are criteria which would not be acceptable, it would be appropriate to give an outline of what -- a little bit of guidance in this area.

Finally, is Section 217, Subsection F, with respect to Ph.D. degrees, the last paragraph speaks of the significance of the Ph.D. as preparation for . . . academic inquiry. Certainly, nobody can take issue with those words. The only question is is there a hidden standard for review that's not fully explicit in those terms? Scholarship and academic inquiry, if they are tokens for other standards -- what do those mean? If those are to be applied as standards, what are the actual standards? What does that mean in terms of acceptability of a Ph.D. program?

William Haldeman: Thank you very much.

Nina Bouley-Naylor, Automotive Training Corporation

My name in Nina Bouley-Naylor, and I own and operate the Automotive Training Corporation of Northern California. I don't know how to fix cars, but I know how to hire the right people.

I'm honored to have had my name submitted by Senator Morgan for a possible person to be appointed to the new Council. So, I do feel truly honored. I'm a product of the California schools, myself.

I own a school, a small one, and we have no financial aid. We have many third-party-funded students -- approximately 80 percent of our students are funded by Workmen's Compensation, 10 percent are funded by JTPA funds, and 10 percent pay for themselves to come to our school. We've never had anybody, as the students say, "stiff us." So, I've previously managed degree-granting schools, and have previously managed schools that were accredited through an accrediting organization. So, I have what I feel is a well-rounded reason for presenting something that concerns me.

There are many of my concerns that were already mentioned, but I have a concern regarding, if I could refer you to your standards, I wish we could have added another one or put in a subdivision: equity.

William Haldeman: Okay, you're in the standards . . .

I'm in Enclosure 2, page 52 and 53.

William Haldeman: Okay, you are in Statute, now. All right, and you are in AB 1402.

That's right. And in Section 94319.2, and we're talking about the ability to benefit.

I have some major concerns, especially in this day and time of -- we're bombarded totally with information regarding dropouts from school, literacy, lack of literacy, and I'm seeing here -- and I know from my own experience over the many years of being in vocational education, and in the public schools as a teacher and a public school counselor and a public school administrator -- that those students who fall by the wayside are the very people that we need to deal with, because they become the burdens on society. By establishing a specific list of tests that are coefficient and reliable, and all that stuff we learned in psychological testing and so on, I am afraid we are cutting out people who can truly benefit from vocational training. And we need to be very careful that we become inequitable to that population.

William Haldeman: . . . This is something that I, and I have to say, I believe is being addressed in AB 1401. In any case, this is statute now, at the present time, and we would have -- we will be having to work on regulations for this section. If there's something we can do to modify it, or to clarify it, or explain it, we certainly will. In this case, I would imagine we'd have a difficult time doing anything different as far as regulations. So, the best we can hope for, I think, is that 1401 will deal with this, and liberalize it or give more options.

That's very important, because I know very good schools are dealing with this population, have a test of their own that they can give data to the new director and so on. I think that's very important.

William Haldeman: You're really saying, aren't you, that the tests prescribed don't really test for certain kind of -- for whether you can succeed at that type of school?

Or frankly, in some of the tests that I've taken a look at, and I'm a former reading and psychology and English teacher -- doesn't make me an expert; it means that I have a small view -- some of the directions are written at the eighth-grade level.

I don't teach just mechanics at our school. You need to read at the eighth- or ninth-grade level to be a mechanic these days. We teach service advisors, service dispatchers. We teach warranty claims clerks, and we teach parts people. In order to read five- and six-syllable words, you must read beyond the third grade. And I am concerned that we not cut out the very population that we need to be serving.

I really appreciate your listening to me. Thank you.

Syin Heng, Dharma Realm Buddhist University

William Haldeman: While you're coming up, let me just say that we will conclude with this. There was some word out to some people -- I guess my secretary may have put it out informally -- that we were going to do degree regulations in the morning and vocational in the afternoon. There's some possibility, therefore, that some people will show up this afternoon. So, we will be around, but you needn't keep us company if you have better things to do. I doubt if anybody will show. Yes?

Audience: That's why I've abstained from comment. I was under the impression that we would be talking about SB 190 for the most part this morning . . . this afternoon.

William Haldeman: Are there others under that impression? Well, we'll take your testimony this morning, then.

Audience: I don't have much.

William Haldeman: Well, okay. We'll do that. How's that. Yes, you have a form there?

Okay, I'm Syin Heng, from Dharma Realm Buddhist University. Again, this is about the 205 section about faculty qualifications, Section C -- about the 25 percent.

The way it's worded now, there's two categories. There's the category of having a degree in the academic discipline from an accredited institution, and then there's the category of substituting exceptional experience or professional certification. But, there should be the possibility of substituting a degree,whether academic or professional, from a nonaccredited institution. If someone has a Ph.D., but it's not from an accredited institution . . . .

William Haldeman: I think that's what we intended.

But, it doesn't say it, and that's going to make a difference. That's all.

Fran Ford, Shiloh Bible College

William Haldeman: Fran, you have the last word.

Fran Ford, Shiloh Bible College.

Regarding item 1210, Expert Advisors, I was somewhat concerned about there not being a limit stated in the regulations to the number of advisors. I can envision four,five,six advisors being sent to a small school and putting us under totally, financially. So, I would hope there would be up to three, or something that would be deemed acceptable.

Just in general, the power of the director of this Council seems to be quite a lot with regards to their ability to appoint.

William Haldeman: As long as he or she holds this job.

I'm just concerned from the school's standpoint, from the administrative, of a director who might select a committee predisposed against certain points of view -- which has been and can be the case in terms of a Bible school. I'm just concerned that there be sufficient check and balance on the Director's power, and I'm not -- I don't really have a suggestion as to how that might be accomplished, but it is a concern.

William Haldeman: In the accreditation process, there's a way to deal with that. The institution has a sign-off on the visitors, on the composition of the panel. I'm not quite clear that that's as appropriate in a licensing situation, but I think your concern is one that we certainly should consider.

If there were a way to make sure that there was some action that a school could take that wouldn't be legally consuming . . . .

William Haldeman: Okay, thank you once more.

John Zimmerman, MTI Western Business

William Haldeman: All right. We'll give full attention to what you have to say. I'm sorry about the misunderstanding. Probably my fault.

No, I don't think it is. I wouldn't have brought up the subject.

William Haldeman: Please state your name and . . .

My name is John Zimmerman. I'm associated with MTI Western Business College, in Sacramento. I'd like to first say I think that a lot of the laws we see in 1402 and SB 190 are necessary, and I think we need to ask ourselves how these come about.

Continue to focus on what the problem is and what the problem has been. And the problem, very briefly, seems that there's (sic) some schools issuing degrees that shouldn't be, and there's some schools that are enrolling students in programs that have no ability to benefit. There are some schools that are not taking the student's interest, at least not putting it at the forefront.

But, it seems to me that we've gone overboard. We've come up with rules and laws and procedures that are going to require a small school such as ours to hire additional staff just to keep up with it. I would hope that those that are involved with drafting the final regulations will consider what we're really trying to accomplish, and what's really enforceable, rather than just have the good schools, or the schools that are going to follow the law, have to go through all this effort to never have it examined, never have it questioned, or never have the schools that ought to be regulated, or have someone really looking at them, ever even comply with it.

I'd like to take as an example on page 50, it talks about the records that a school's required to keep. It's page 54.

William Haldeman: That's 54 in the Statute, and the section number is . . . .

94319.5A. "Every institution shall maintain, for a period of not less than five years, at its principle place of business in California, accurate records that show all the following . . . ." Now, when I read accurate, it means that I would say up to date. And, you're asking me to maintain the up-to-date records of the names, telephone numbers, home and local addresses of each student for a period of five years. I don't know -- is that what that says?

William Haldeman: Yes. The problem that you're saying is these are students, so you should have access to their current address.

Do you think Sac State has records of me -- I graduated from there. Do you think they kept records of my locale after I left the school?

William Haldeman: The question is did they keep it up to date?

I don't know.

William Haldeman: Maybe that's something we can address in regulations and clarify that.

Good. What are we trying to accomplish? I think that's what we have to keep focusing on. Are we trying to make this as difficult as possible? Or are we trying to improve the quality of education to all levels of the population in California? And this is not going to help out in that respect.

William Haldeman: . . . . We said we wouldn't discuss. But, here's a point where your original interpretation may very well have been the intention. As I recall, the placement of figures -- well, I'm not sure about this -- the placement figures may require being able to contact the student a year after they've left the program.

I certainly see that is, I'm sure, the factor that created this to be put in here. The old follow-up and the check: if I say I have 60 percent placement, to be able to go and find those students and say, "Did you really graduate? Did you really get a job?" five years down the road. I'm only saying that with the population that we serve . . . . We're not serving the population that's going to go buy a home after they graduate from our school and settle down and have a family. We're serving a population that is going to have an apartment, and they might, tomorrow, decide to move to Amsterdam because it sounds like the thing to do. It's just not possible.

William Haldeman: . . . . Now, this you understand is Statute.

Right.

William Haldeman: And, I'm not . . . if it makes it more reasonable, we'll certainly do that.

The refund policy was brought up earlier today, and I hope that there will be some consideration of what's reasonable. If I could just add that refunds up to the halfway point, pro-rata, seems to be reasonable. It seems to go in line with other bodies, such as the federal government, and it seems to also help the student to be able to not be hit with a big bill if they decide that it's not going to work out for them after a couple of months of school.

Finally, my last major concern and input I'd like to voice is the requirement that we publish a notice of student rights. Not just publish it, but post it in all the rooms in which students enter. This is on page 45, 94316.20. I call this the "your an idiot; you better drop out" form. Let's remember when we were in school, and we, maybe, had a problem with how the teacher graded us, or where we were, maybe, frustrated and "Gosh, what am I doing here." I remember when I was in college, there were times when I said, "What the heck am I in college for? I could go out and do just as well without this degree. Why don't I drop out?" Maybe it would have just taken a notice like this posted on the wall of that classroom to really make me do that.

Our students, 70 percent of our students are either on unemployment, AFDC, Disability, or some other benefit payment. They are not the students that are going to Stanford. They're not the students that have a big network of support people at home to tell them stay in school, stay with this and make it. In fact, the people that make the support group they have say "Hey, come on, don't go to school. Let's go to the river." It's not the get-through-it-and-make-it; it's the I-can't-make-it, and it's much easier to believe in the fact that they can't make it than believing that they can make it. Do you know that? Do you know it's easier to believe in failure than success?

Well, this makes it almost concrete that I can't stay in school. I may cancel my contract at any time. You have the right to stop school at any time. I'm trying to keep my students in school. We fight. We have people that call people the day they miss school. You know, we missed you today. Are you going to be in school tomorrow? Here's your homework. We fight. We work very hard to have a 60 percent -- I've got 65, 60 percent graduation rate in our programs. It's a battle, and we spend a lot of time and money to keep our students in school. And this only makes it more difficult for us.

Audience: I agree.

I hope you'll take my comments into consideration. I hope you'll help to make this a bill that we can live with. We've been in Sacramento for 65, excuse me, 25 years. We will be here for 65 years. Last year, we had 341 documented placements, students going to work. 70 percent of those people were on some type of benefit program. They're off that program. 40 percent of our students, 35 percent didn't make it. But, there's a good large share of those people that did, and that we helped and benefitted. We have a 21.5 percent default rate in our student loan programs. We want to improve all those numbers. But, some of it just isn't possible.

If I had the students that were going to Stanford, I'd have the results that Stanford gets. But, that's not the case. Those aren't the people we're serving. Thank you.

Jay Olins, California Association of Private Postsecondary Schools

William Haldeman: You all have good timing. Is the record on? Okay, Jay, would you identify yourself for our record?

My name is Jay Olins. I'm the Executive Director and General Counsel for the California Association of Private Postsecondary Schools.

I appreciate the opportunity to comment on the proposals that CPEC is going to make to the Council for regulations, and particularly, I'm going to concentrate on those proposed regulations for non-degree-granting private postsecondary vocational education institutions.

I'm sure that a number of people, individuals, have spoken about the Appendix B regulations, and I don't want to pretend to intrude on their turf, although I would say, as a general observation, the breadth and depth of the attempt to regulate the activities of degree-granting schools by the State seems to be overly enthusiastic, that some of the traditional roles of accrediting agencies and individual institutional decision making are going to be taken on by the State, and it isn't particularly clear that there is a capacity or a will to take on that process. But, just with that caution and concern, I'll move on to talk about the most recent addition of the proposed regulations. I was privileged to have served on one of the technical groups that viewed an earlier version of these documents, and to a great extent, there has been some progress in dealing with the concerns that we brought up. However, it isn't always the case, and I'll touch upon those particular areas.

With respect to Section 1010, the annual report, -- I'm sorry, let me start out with Section 1005, Sub E, talk about notifying the State of the addition of a branch campus, either inside or outside of California. As to the latter, I can understand why you might be, it might have administrative significance, but I don't know that I can identify the State interest if a school in California chooses to operate a branch in another state. I suppose for every argument you might make it would be an administrative drain; it would be a financial drain . . . . I suspect that one can be administratively drained in California. Through mismanagement, one could be drained of personnel through departure, and of course, you have called for disclosure of substantive changes. I don't know that the adding of a branch outside the State -- it almost sounds like we're reaching out to say it would be inappropriate for an institution to open a campus in New York or Oregon.

William Haldeman: What are you questioning, the authority of the Council, or the necessity?

Probably the authority in the first place. Yes, definitely the authority, and the necessity, I think, that each State has taken it upon itself to protect its educational consumers. If we can accept the record as being true, I don't necessarily, it seems that every state has done it better than California. I think that they might look upon this as being somewhat presumptuous on our part, until we show that we can do a good job here. As I say, I don't necessarily accept the premise. So that would be the first item. And that is, to my knowledge, a new provision that didn't appear, and we did not discuss it in the earlier draft.

Looking at 1010, the Annual Report, I've been hooking back and forth between the various provisions in Section 94312.2 and 16.4. I'm essentially concerned that we don't duplicate in the regulation that which is already called for. At least, I believe that the total number of current enrollments may be called out in 1401, in one of the new sections there. I think.

William Haldeman: Yes. It is. The problem with that language is that it's oriented toward degrees.

I saw that. It's probably flawed.

Frankly, what they ought to do is correct the legislation. Until they do so, this makes sense.

William Haldeman: That's why it's there.

Perhaps you might talk to somebody over at the Postsecondary Education Commission active in 194, and maybe they might accept this suggestion. As I say, it is appropriate as long as you're tying it to existing legal language. But, be aware that there are changes still coming, and I know that this entire document has got to be considered to be dynamic because there will be, and have been, changes made.

Skipping to Section 1120B, the point that we had made during our discussions in Orange County was that this idea of a brief statement of aims might have been somewhat daunting, and we . . . statement of aims is what my notes show. Either that was decided against or overlooked, one or the other, but . . . .

William Haldeman: I'm sorry, could you run that by . . . ?

Yeah, this would be 1120B, rather than the word "brief" we had suggested just "a statement of aims." The brevity was going to be in the . . . application, but it wasn't necessarily going to force a school to be brief in describing in the course syllabus. Since it's an internal document, they could be used for BOLS (?) or otherwise, as they chose. It seemed like the State wouldn't necessarily say you've got to be brief in creating a document here. It gets filed with you, as it does in the application -- you've asked for 100 words approximately, which is a compromise, but here I don't think brevity is necessarily called for.

William Haldeman: Jay, I'll just interject here that I was expecting that you would repeat an objection to that that some others have had. They were afraid that they were required to do something beyond brief.

Frankly, in reading this over, I don't know what the practices are. I don't know if any of us really know what the practices are in a welding school, in a business school, whether these Sections A through J are, in fact, undertaken and what State interests will be served. We're so outcome oriented that in more and more of the legislation they tend to want to be sure that people can be trained in the occupation for which the course is designated. I just don't know that all of these things are going to be found, or will be done at the professional level, or that they're necessary in order to accomplish those outcomes. I mean, that's really -- is this paperwork necessary in order to accomplish?

You might argue if you don't have this, how can you get done, and how can it make sense? I suppose if you look at the instructors and the program -- the only way I know for sure is look at the end result. Having a syllabus is fine, but what does it produce. So, in the ideal world, I would like to be able to look at outcomes, and then, if they were not delivered, try to figure out why by reference to program material. But, if a regulator's going to come in and say this just isn't adequate, without some reference to some failure at outcomes, I would be disappointed in the process. This would only become relevant if outcomes are unsatisfactory -- if the magic percentage of completions or placements . . . .

William Haldeman: I see that this, at least at minimum, needs to be made clear.

It would be appropriate as a part of a workout arrangement; a part of a disciplinary arrangement. I don't know that it would be necessary in an ongoing operation.

William Haldeman: We won't discuss it with you today, but I certainly have gotten your message.

Okay. With respect to the instructors, which was the first -- the Sub A was included in a different number, as I recall. Let's go back to that section . . . .

William Haldeman: You mean in 1130?

Yes, I'm looking at 1130, but there was an old number. It was 1520. And my comment then, and it would hold true now, would be that there needs to be some kind of an exception system that doesn't rely on some kind of a quick response from the Council. The concept of having distinguished faculty that may not meet the standards, and my suggestion was that notification be made to the Council which then can act upon it and say we're sorry, but you'll have to make other arrangements. But, at least you're covered in the classroom. So, it allows for substitute teachers.

This, I think, is what happens most frequently. There'd be two things: you'd want a substitute, or you'd want to hire somebody that on the surface didn't meet one of the five standards but, nevertheless, was eminently qualified. There are some occupations where they may not have even -- there may not be five years of history, in computer-rated design, for example. I think you need to have some kind of -- two provisions, one for substitutes and then, secondly for hire of otherwise qualified faculty through a petition process.

Then, in Sub B2, I remember that some of the members of the group brought up -- it's 1130, Sub B2 -- that these letters from employers . . . appropriate. I think that what we had suggested was documentation of any experience claimed. In other words, it may not need to be letters from employers. It could be licenses. It could be other evidence of experience. That was pretty explicit there. It's not even by way of example. There could be many other ways of documenting experience. If you're a real estate teacher, you might show your five years of licensure.

Turning next to Section 1140, in paragraph A, I think that it's a minor point. ". . . or withdraws from the institution prior to the completion of any of its programs" is an unnecessary sentence. It's a holdover from the old one. You said you're going to keep a file on anyone whether or not they complete. So, the fact of withdrawal has already been subsumed within whether or not they complete. Once they're in, you must keep a record on them, and you've dealt with that enough in the first part of the sentence. So I think everything from ". . . or withdraws" through "program" should be stricken.

The same section, 1140B: thank you. You have provided that the Council will take responsibility for records where other arrangements haven't been made. We're also trying to seek specific statutory recognition of that in further amendments to 1402.

William Haldeman: When we're off the record, we'll tell you what we have planned "tongue-in-cheek" for those records.

Turning next to 1160, the catalog requirements, once again, it's a matter of being sure that we're not putting in language which duplicates the law. I looked pretty carefully, and I couldn't find that the law required A, B, C, or D. But, if it's in any ultimate change it does, then they should be stricken from this particular part of the legislation.

With respect to paragraph C, Complaint Procedures, we drop down into 1175 where it is not set forth, the complaint procedures. My recommendation, when I sent my comments back -- the fax pages on May 7 -- was that the school shall designate the person to whom complaints are to be directed and publish its complaint resolution policy. That would be my recommendation for the language to deal with the procedure. Who to register your complaints with and how the policy works. I don't know if we have to have all the details of it, but I think that would take care of the process.

William Haldeman: There is quite a detailed procedure case . . . requirement in 1402 ...

That may be the answer to it, but some reference there would be appropriate here.

William Haldeman: I'm sorry . . . the point about the catalog . . . 1160. . . .

Oh, 1160, yes, I'm just saying that just as with the filing of annual reports, be sure that we're not putting into regulations things which are already clearly stated in the law. To my recollection, none of those four points are in the law, but I could be wrong.

Anita Scuri: We tried to take all the stuff that duplicated the law out. But, if you have any . . . .

Turning next to Section 1170, I'm sorry, 1200, Application Content. While in part M you do discuss the fact that this could be a renewal application, the preamble material, after 1200, just speaks for approval. I think that you ought to say, "shall apply to the Council for approval, renewal, or any other document" that you think is going to be covered by all these paragraphs, A through P. That preamble ought to indicate that, because I think of an approval as being an original application, and . . . .

Anita Scuri: We can change the sections on renewal to specify that the approval process is . . . .

It's just a matter of clarity. If somebody just glances at the first one, well, gee, I'm not applying for approval, and they might skip this as not applying to them because it says applications for renewal. The scope of 1200 is larger than the preamble would show.

I know we discussed at some length, and perhaps this is the response, the thoughtful response open to that, was the concern about displaying telephone numbers as a matter of public record. I just mention it. I don't know how State agencies deal with that particular issue.

William Haldeman: I think . . . both here and in the faculty -- it appears in C. Name, address and telephone number of the owner or owners. I think at the time we discussed this earlier we had mentioned the fact that -- at least, it's been our experience in . . . visits of having those available and using them to confirm certain information that was in the application.

I think the State has a need for it. I don't know that the disclosure -- I don't know that once you gather it whether the disclosure could be withheld. If there was an opportunity to -- like, for example, financial information is not made part of the public record except on a need-to-know basis by police agencies and investigative agencies. The same thing might be done with phone numbers.

Anita Scuri: What you're saying is the institution should be required to have telephone numbers available, but not necessarily provide them on the applications.

I think that the State ought to be able to have them on file in Sacramento. I just would hope that they wouldn't be part of the public record.

William Haldeman: Is that appropriate to cover in the regulations?

Anita Scuri: You can't -- there's a public records act, you can't change public records through your regulations. If they're going to be on file in something like this, unless they're covered as personal information under the . . . practices act, then they would be a public record. . . . should be able to -- well, I'm not going to be the attorney charged with enforcing this, so I don't -- you know, I would hate to . . . .

See, again, the fact that my home phone number -- I think the Council -- if I am a school operator, or owner, or shareholder -- ought to have access to it for a . . . . I don't know that the -- you know, Bill Townsend, or somebody from the Bee or whatever, should be able to walk in and say what's Jay's home phone number.

Dale Heckman: . . . .

Oh, I understand that, and that's the other thought that comes to me. It can just be the school number. Maybe that just would be the answer, Dale.

William Haldeman: But the fact that they would be . . . more likely be home phone numbers.

And, I can also see somebody from the Council saying, "But, they're going to have a new form that says home phone number, business phone number, just like employment applications." It's just a concern that I have with the fact that media and other parties think that they have access by virtue of doing, engaging in business in the State that they have a right to that. I don't know that the State's interest is to transmit phone numbers -- home phone numbers to third parties. There ought to be some way of discharging your duty without . . . .

William Haldeman: We will give that some more attention.

After you have, in fact, gone from no more than 100 words to approximately . . . .

Audience: . . . .

Just another philosophical observation on G, and that is that this appears to be -- the language appears to be taken from an academic accrediting guideline. This concept of governing boards. Now, I know that, I think, in the earlier editions, said the governing board now the change has been in "if applicable." Just the very idea of a governing board . . . . I don't know, for example, National Education considers that it has a governing -- has a Board of Directors. I guess -- it sort of indicates some insensitivity to the proprietary, the business, nature of the process.

William Haldeman: What if we took the word "governing" . . . .

Well, the governing board, yes. First of all, are you looking for the name, address, and phone number of whom, the owners, and/or directors? There really isn't a "governing board" in the sense that . . . nonprofit corporation . . . .

William Haldeman: I guess that's a, perhaps in part, a rhetorical question, or one we have to ponder yet more. I think the organization chart here is trying to get at who's in charge. Then, that's what leads a site team to appropriate questions about when the person in this office or that office has the qualifications.

JO: This is fine. I agree that an organizational chart ought to be part of it. I've done them for accreditation visits, too. What I'm saying is a term like "governance" and a term like "governing board" are an anachronism in the case of the business of education in a vocational school. I just think that if we can -- it will demonstrate sensitivity on the part of the Council to not use those with respect to the business of education. The concept -- no concern. The language, it shows the heritage and causes people to say, "hey . . . ."

Audience: . . . .

Turning to page 32, paragraph M, I had commented, because this language is a carryover from the previous draft, that submission of the FISAP, which is the federally recognized financial aid form that deals with all financial aid minutiae, should be clearly spelled out as satisfying this. You could either go out and talk to somebody who knows FISAPs better than I do, but I think that a FISAP is what you really want here. In fact, it would be very desirable. It would give you all the details about that school's financial aid packaging.

William Haldeman: How do you spell that?

F-I-S-A-P. It's an acronym, probably fiscal -- I don't know. Region 9 knows what it is.

William Haldeman: Where would we go . . . .

CASPA, WASRA, Student Aid Commission. They only deal with parts of it. So, really, it's Region 9, or CASPA. Either of those two. Financial aid office at any university.

Skipping down to P, this is something that I did not pick up before. But, the summary of student services -- I guess I'm -- textbook purchases -- are you saying they deserve -- are you asking if there is a student store available? Or are you saying -- I don't know what textbook services means. I can understand academic counseling, job placement, babysitting, drug abatement, etc. I'm just not sure how textbook purchases fits in the context of what I understand student service to be.

William Haldeman: Whether or not you have availability for the students to buy their textbooks.

On campus as distinguished from . . . . Maybe "on campus textbook, or bookshop, or something like that.

Turning to page 33, Article 4, Section 1300, Candidate For Approval Status, I guess what you're doing here is trying to fill in a gap. There is a requirement for early filing of a renewal of an approval, but there isn't one for candidate. Is that your purpose here?

William Haldeman: I believe that's it.

It's clearly different than an approval. In fact, I believe that 1401 now says if you apply within 180 days, you will have been deemed to have applied timely and will have, cannot, regardless of inaction by the State your license will continue until State action is taken.

William Haldeman: Okay, 1401 says that?

1401 says that. Now, I don't know whether it modifies both approval and expiration of candidacy. You might want to check that out. It's a good addition to the bill.

Skipping to Article 6, Certificates of Authorization for Service, 1401 has stricken that whole subject matter.

William Haldeman: Yeah, we're aware of that. That and the . . . .

Again, I would hope -- what the schools were trying to get there was to leave responsibility for verification of qualifications, etc., in the hands of the institution, and then subject to validation. And, you've got all of the criteria set forth, plus the law does. They would hate to have the thing be resurrected as a Council activity, even if it wasn't fee generating.

William Haldeman: I thought we had suggested that we drop this. In any case, if the law drops the certification process, ...

That basically covers the points I wanted to make. I just have a couple of other observations that I wanted to share with you. This was, and I'm referring to some comments made by, down in Southern California by Dan Smith in which he raised some issues about whether the regulatory process is a way of dealing with some of the uncertainty about enforcement dates of the law. Frankly, I'm not certain what authority the Council has, but if the law is silent or uncertain, it would certainly be very helpful for the Council to indicate what it believes to be through regulation the effective dates of various provisions of the law.

Audience: . . . .

Not just process. I'm talking about when various provisions -- that's correct.

Let's hypothesize for a minute that the law is the law, but there is uncertainty and ambiguity. There were agreements not to enforce parts of the law on the part of the Attorney General, speaking allegedly for the State. It's that kind of uncertainty that makes it difficult for people to know how and when they're supposed to respond. Now, whether you can by regulation define it, and then create clarity, and then let someone else battle it out. In other words, if you're the enforcing agency, and everybody agrees with you, then I don't know who the other side is, saying, "No, no, this has got to be retroactive to January 1989, or 1990, . . ."

William Haldeman: I was going to say we could do it informally, but that's . . . .

Anita Scuri: You can't put effective dates in the regulations. . . . . I question the wisdom of having different effective dates for different parts of the same act. . . . . Because you can set the effective date. You could always say things like "this will only apply to institutions approved on . . . ." There are different ways of handling this, but it's a policy question.

William Haldeman: You probably need specifics to propose.

Today no, but it's very possible that there could be, and I think that, if I heard what you were saying, the law was law as of the date it was enacted. Nevertheless, you define when you take certain actions to comply with it, that are compliance. You can't keep a citizen from doing it, but the agency, the bureaucracy that's dealing with it, can take a different viewpoint and begin to investigate compliance at a certain date. I don't have anything specific.

The one other element that Dan spoke of down in Southern California was the so-called fraudulent student that in defining completion and placement rates I would, without necessarily saying this is the only language possible, that clarification of that certain student could be excluded from the completion and placement numbers because they, in fact, came to school, and it happens at all institutions, to take advantage of the financial aid check and head for the hills.

William Haldeman: Can't that be -- I was going to ask easily administered -- clearly administered? The fraudulent student exclusion? Or would we have to rely solely on an institution's honesty in order to prove it?

I think if you, in fact, everybody would have an interest in having this not be true because you would then be able to go out and find the student and force them to repay their loan. I don't think this relies anymore on the probity of the institution than any other area in this Completion and Placement, you know, in 1402, 1401, they sort of spell out a whole process: put down the name of phone number of the person who told you that the student was working; and what time you talked to them; and how we, the State, could call up that same person and confirm that Suzie stayed on the job for 60 days, etc.

William Haldeman: Is the fraudulent student being dealt with in 1401?

No, it's not dealt with in 1401.

William Haldeman: There's no expectation . . . .

There's no expectation that it will be dealt with in 1401. There'll probably be a number of areas, and I fervently hope that, in fact, the Council is deemed to have some power to clarify, because in the negotiations there's just been a real unwillingness to deal with -- the most ludicrous example that I can cite is one that, unfortunately, was true. You can -- we had been negotiating for a while about whether you exclude from completion and placement a student that was jailed, and they were sort of willing to deal with disability and death. We know of one case where a student in a computer school 10 years ago in Los Angeles student A shot student B because student B was sitting in student A's seat. Well, under the way they negotiated the law, they were unwilling -- the dead student would be excluded, but the murderer would be included. So, it was so prescriptive as to defy any rationale.

William Haldeman: My guess is the Council will have some authority in that direction.

Hopefully, they will have some power in that particular area.

William Haldeman: I don't want to make light of the important principle of the fraudulent student, not as a factor in the accounting, but is it possible at all to, and isn't it -- once you get into that doesn't it become necessary then to determine prior intent. That is, where the student came in, the applicant came in, intending to walk away with the money. Or just decided he's going to quit and "by gosh, I'm not going to give that money back." That gets awfully . . . .

Yeah, in the latter case -- I mean, in either case, he should, he has to return the money if he should relocate. The question is in the former case it's his only reason for enrolling, and in the second case, your right. I don't know how one can determine that, but clearly in the first case, he ought not to count against the school, and in the second case, he should. I don't know how to break it out as I'm sitting here.

One final point, and again we're having difficulty in dealing with it in the negotiating process, but I think it's critical. It keeps on surfacing everyday, and that is that there needs to be an accelerated process for recognizing and accomplishing a change of ownership, particularly where Title IV student financial assistance is involved. You might say, "Well, gee, if it's a situation of distress that's causing the need for alacrity, then maybe we ought to be looking at it more closely." In fact, that's one of the few cases, if a "white knight" can be found to step in and take on the financial burden of teaching these students and being sure that the obligations are met, they ought to be allowed to do so on a temporary basis, quickly. Now, again, we have had no success in the negotiations because there are too many bigger issues to deal with. But, this is one that I would hope that by regulation there would be that the Council could, in fact, set in place a process. I will tell you that currently the Department is unable to do so. Now, whether that's . . .

William Haldeman: That's a different issue.

Yes, and I'm not sure . . . . I think it's an administrative problem, but because policy tends to be viewed as regulation, and regulation must be published, I'm saying that a published policy of accelerated attention to change of ownerships, some way -- even with the payment of a premium -- that would get these things handled expeditiously would be helpful for the students and every other agency. I don't need to go into the details, but there's many -- the State's involved, and the feds are involved, and accrediting agencies are involved.At this moment, it appears that the State is the fly in the ointment that is keeping the process

William Haldeman: That's the first step, isn't it?

That's correct. It never was a problem in the past because of the recognition of accreditation as sort of . . . .

William Haldeman: Current law in this regard gives . . . does it not?

The outside, but it doesn't give the inside. Our recommendation is that there ought to be a process that would allow the Council and/or the staff to permit a change of ownership and deal with it all within 30 days and issue a temporary approval, and then take a longer view about being able to investigate the qualifications of the management, and so forth. I can't foresee that the process, no matter who the buyer was, I can't see the process ever creating a larger problem for the institution or the students. If it turns out that the buyer has no resources of any significance, the school was in financial straits where it needed this help anyway, so it's going to have to be shut down. The agony has been prolonged for 30 days.

On the other hand, chances are in every case, hopefully in most cases, the buyer would give life to the institution. Certainly in looking at an application, and the financial means and so forth from an administrative viewpoint, I would think that the process could be accelerated for those in those narrow cases. So that they can move the paperwork through the federal and accrediting arenas.

William Haldeman: . . . I mean, it certainly is within the authority and the bounds of the Statute for us to do that. So, that should be possible.

Otherwise, we're sort of relying upon the good will and the "arm-twisting," you'd call up and talk to the Director and say, "Gee, can you do this." I think, if it was, if a policy was clearly set forth, there wouldn't have to be that kind of arm twisting.

Anyway, that concludes my testimony, and I appreciate the opportunity to speak.

William Haldeman: Thank you, Jay. I'm glad you stayed for this. I would have hated to have left and had you make this trip for nothing.

Richard Crews, Columbia Pacific University

William Haldeman: Well, we still have some time, Dick. I think you used yours all . . . . We just have about 60 seconds.

First, a bit of history.

William Haldeman: This is all being recorded, Dick. Did you want it on the record?

I would like it on the record.

William Haldeman: Okay, 60 seconds, then.

I don't think it's clear to say that full disclosure died a death in the 70s. The Private Postsecondary Education Act of 1977 endorsed it. The Special Committee report in 1983 did. The . . . Bill in 1984 incorporated the Special Committee report. If full disclosure is dead as a resource or an avenue for functioning of non-traditional institutions, I would be very sorry to see it go, and surprised. I think the other comment I would like to make is that there are two particular areas in which innovation conceptually can occur. One's in the disciplines. Surely, neural nets and expert systems in artificial intelligence and aspects of international diplomacy and so on were not areas that could have been contemplated in their present form a few years ago. There must be leeway for allowing the development of academic programs in new disciplines.

However, there must also be leeway for allowing development of academic programs with new delivery systems, or new educational techniques. We have capacities for worldwide, instantaneous communication, and for interactive communication, for example, on the computer terminals, which were unknown a few years ago, and could not have been incorporated into the thinking of the development of traditional delivery systems. So, I think in those two areas, it's very important for us to maintain our flexibility and our openness to creativity, both in new disciplines and in new delivery systems.

William Haldeman: You understand that we're not legalizing against -- we're not legislating against research, nor the discovery of knowledge? That's one of the things that concerns me about More University, which describes itself as a basic (that's *one* of the things that concerns me about More University) that describes itself as a research institution. That we are carrying out the concern of the Legislature for the integrity of degrees, and that has to do with the issues about whether there is a body of knowledge behind those degrees, and whether it has been properly communicated and evaluated. The discovery of new knowledge is only incidental to *that* particular process.

Academic degrees are licenses to operate in a certain field. They're credentials. They're a key to acceptance, to having your ideas heard. And in the development of new areas of knowledge, it is important for the academic credentialing function to serve and to follow vigorously in there. If we were to commit ourselves at any given point only to the degree areas that existed at that point or five years before, the mainstream academia would, as it is in fact, continue to become more and more irrelevant. The vast majority of even adult and sophisticated advanced education these days happens outside of academia. It happens in the corporate world. It happens in the professional world, and academia has increasingly made themselves irrelevant, limited to degrees as they were a few years ago, and not to have the capacity to move vigorously with academic credentialing into new areas and new delivery systems is fatal.

William Haldeman: Thank you, ...

PUBLIC TESTIMONY

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

June 26, 1990
Department of Consumer Affairs
Sacramento, California

WILLIAM O. BARRETT

President
San Francisco Art Institute
San Francisco, California

Vice-President
National Association of Schools of Art & Design
Reston, Virginia

First, if I may, I would like to provide a bit of background about myself. I do this to show that I speak with a reasonable and varied background on this subject, and not entirely out of institutional self-interest.

My experience in higher education spans 20 years. Before coming to the west coast, I spent 17 years in New York City and Washington, D.C., at two colleges accredited by the Middle States Association of Colleges and Schools and the National Association of Schools of Art & Design (NASAD). NASAD was founded in 1948 and is the only recognized accrediting body for programs in art and design in the United States.

I am now President of the San Francisco Art Institute. SFAI is a private, non-profit college founded 120 years ago, which grants the BFA and MFA degrees. For 30 years our college has been accredited by the Western Association of Schools and Colleges (WASC), as well as by (NASAD).

Five years ago I began to do accreditation visits for NASAD. I have been on about ten team visits, some of which were held jointly with the regional association, and have chaired many of those visits. I also became quite interested in the entire business of accreditation. I now serve as Vice-President of NASAD, and will stand for election as President this fall. Thus, I speak today as both the president of an accredited California college and as an officer of an accrediting body.

On the whole, my reaction to Senate Bill 190 and Assembly Bill 1402 is one of support and relief - support because I heartily endorse this move to strengthen educational programs and to prevent fraud, and relief because frankly it's about time.

I do, however, have three serious concerns about SB190. While they may not parallel the other concerns expressed here this morning, I do feel they should be on the record and hope the Commission will give careful thought to what it is doing.

My first concern is about a potentially large duplication of effort. I am referring to the Legislative Digest in Enclosure 1 which calls for the Commission to evaluate all organizations accrediting colleges and trade schools in California.

It is laudable that the State of California seeks to avoid the expense and time of visiting and reviewing all colleges in California, when their accreditation may safely stand in place of state approval. There is an excess of accredition and accreditation-like activity as it is - anything the state can do to lessen the burden on the colleges is more than welcome. However, the proposal to review the all accrediting agencies now and every five years sets a dangerous precedent, and simply shifts the burden from the colleges to the accrediting bodies.

Valid accrediting associations already are reviewed and approved by both the Department of Education and the Council on Postsecondary Accreditation (COPA) on a regular and thorough basis. I would ask why California cannot accept DOE or COPA criteria in lieu of the lengthy and duplicative process on which it now seems to be embarking.

Many states around the country already accept accreditation by a "recognized" accrediting body as a substitute for state approval precisely because DOE and COPA already have a thorough review process and because of the time and cost savings for the colleges and the associations. I would ask why California cannot do the same.

To carry this procedure to an extreme, I can see the day when accrediting associations all over the country (including WASC) are flooded by requests for information from every state in the country. Surely there has to be a better, more economical way. I strongly urge the Commission to review this provision in the law and to see if there isn't some way to rely on DOE, COPA, or the same system used in many other states.

Having mentioned WASC, that brings me to my second concern. I have hosted three regional visits at my previous schools, have chaired visits for two regional associations, and have chaired visits for NASAD as well. WASC is certainly a well-run, professional, ethical, and thorough accrediting body. While granting the utmost respect to my colleagues at WASC, I must say that nothing in my past experience tells me that WASC is the only accrediting agency that knows what it is doing.

I get very worried when I see legislation that grants to one organization, on what basis we are not told, a near monopoly on accreditation in the state of California. I am concerned not because of WASC itself, which I think does a very good job indeed, but because of the principles involved.

Many other accreditation agencies do an admirable job of reviewing colleges and universities. Why are they presumed to be of lesser quality until proven worthy? Why is WASC presumed to know more? Should the state have only one view of accreditation in California, that which is filtered through WASC?

Accreditation is supposed to be a voluntary process, and yet under this law colleges would be forced to chose between WASC accreditation and new state regulations tougher than any WASC has. This would not be a problem often. But, for example, a few schools in WASC are at this moment objecting strenuously to a WASC standard which we believe would alter the essential nature of our undergraduate degrees. If we agree with WASC, then a voluntary organization has forced us to significantly change our programs. If we do not agree with WASC, then by implication we are left with SB190's very restrictive language. This could be a no-win choice for an institution and one which seriously alters the meaning of the word voluntary.

I would ask the Commission to examine this provision of the law very carefully. I think it is dangerous and could have consequences that are hard to imagine today. I would ask you not to make other accrediting associations jump through hoops you are not prepared to ask WASC to jump through, and I would ask you not to place WASC (as much as I respect the organization) in an exclusive position vis-a-vis other accrediting associations.

Finally, there are a couple of places in the proposed regulations where I think clarification is necessary. The first has to do with tuition, and here I refer to part 210(a)1 and 210(c) in Enclosure 1, Appendix B. The language seems to imply that, or at least be unclear as to whether, colleges must state up-front the full cost of attending the institution for the length of the program. I understand the need to protect students from unreasonable increases. But I hope the Commission can see the difference between a course of a few months duration and a course spanning two or more years, and realize that at some point it becomes impossible for even the most well-meaning institution to predict future costs.

The other clarification has to do with refund policies in part 210(g)2. The proposed regulations call for substantial refunds up to 50% of the way through a course or term. The problem is that the vast majority of colleges commit their funds (particularly faculty salaries) at the start of the semester, and subsequently save nothing if a student drops out at any time during the semester. To require a refund policy like the one proposed would bring serious financial hardship to many small, non-profit colleges. I would urge the Commission to examine this and the tuition policy more carefully, particularly in terms of its impact on more traditional colleges with longer programs.

Thank you for the opportunity to address the Commission.

Testimony of Kathleen Callanan, Ph. D.
at Informational Hearing on Draft Regulations
To Implement the Private Postsecondary and
Vocational Education Reform Act of 1989
June 26, 1990

On behalf of the Board I'd like to thank CPEC for having the skill and the courage to promote some significant changes in the way that degree-granting private postsecondary academic institutions are approved and operate in California. It has been abundantly clear to us that the existing system which operates within the Department of Education had neither the academic expertise nor the political will to effectively regulate approved schools.

The Board of Behavioral Science Examiners is responsible for the licensing and regulation of 3 professions. These are (1) marriage and family and child counselors, (2) clinical social workers and (3) educational psychologists. Although current law requires a degree from an accredited university to qualify for either the LCSW or LEP license, the MFCC law allows degrees from approved schools to qualify for licensure.

After years of confusion and controversy regarding the academic requirements for the MFCC license, comprehensive reform legislation authored by Assemblyman John Vasconcellos was enacted in 1987. Section 4580.40 and .41 of the B & P Code now establish appropriate educational objectives which must be included in an integrated degree program designed to prepare one for Marriage Family & child counseling. Applicants applying for licensure on or after January 1, 1988 must possess a doctor's or masters degree in marriage, family and child counseling, marital and family therapy, psychology, clinical psychology, counseling with an emphasis in marriage family and child counseling, or social work with an emphasis in clinical social work from an accredited or an approved academic institution.

Prior to this law, the Board was faced with approximately 160 academic programs in California which purported to offer masters degree programs which would qualify for MFCC licensure. At most CSU campuses, there were several different departments which were recruiting students who wanted to be marriage, family and child counselors. These might include the Psychology Department, The Education Department, the Counseling Department and in some cases the Art and Dance departments. At that time, the law identified 6 degrees that would be accepted. It also included the words "or the equivalent" as deemed by the Board. It was thought that virtually any masters degree would qualify as "equivalent" if someone on the faculty (even a part time instructor) certified that the courses were "equivalent" to those required in the law. Since the clerical employee that evaluated MFCC applications did not have the expertise to evaluate curriculum all over the state they took a very "flexible" approach and relied solely on the signature of someone on the faculty. In some cases, an aggressive professor would develop underground course descriptions for the purpose of verifying the course equivalency. During the course of the reform legislation, we learned that many of these departments did not have administration approval. One of the key components of the new MFCC law is the requirement that the program certification be signed by the Chief Academic Officer of the university. This provision recognized that the university administration should be responsible for the development and verification of degree programs which lead to licensure.

At most accredited universities it took 2-5 years to resolve degree title and curriculum problems in order to comply with the new law, due to the extensive justification required to make substantive changes of this kind.

In contrast, some of the approved schools were able to change degree titles and course descriptions in less than a week. This caused the board to be suspicious of these changes, particularly when they were made retroactively as they were in some cases. The board also began to notice that some transcripts reflected large amounts of life experience and transfer credit for coursework completed elsewhere. The Board wanted to know why the official course descriptions were identical for all students at correspondence and distance learning even though every "learner" is allowed to develop their own course content.

About three years ago, the Board instructed staff to require documentation of coursework used to earn the degree from correspondence or tutorial programs. Much of what we got did not appear to reflect graduate level study in the field of psychology. Usually each of the course papers (if there is one to look at) are stream of consciousness narratives of the writers own emotional development without a single reference to any book on the bibliography. In fact, in several cases, the books on the bibliography were published after the writer graduated from the program. A course on human sexuality would typically consist of short papers entitled "How I Became Sexually Active" or a course in Psychopathology is verified by a short paper on the writers effort to diagnose and treat her father's pathology. Obviously, it is very helpful for a therapist to be conscious of their own development issues, but the public would assume at least some familiarity with a body of knowledge regarding the content, process and method of counseling.

It is important to keep in mind that the MFCC license authorizes its holder to provide psychotherapeutic services to the public for a fee. The consequences of incompetent or unethical practice can have disastrous consequences on the public. The board will never have the resources to properly evaluate each schools counseling degrees and we want to urge the commission to take steps to develop a competent approval process for the MFCC degree programs. While "academic freedom" is certainly a worthy goal, lets keep sight of our public protection role in this field.

We would like to strongly support the concept in Section 217 subdivision (d) which provides that;

> "Degrees which imply preparation for licensure in or acquisition of skills in, a direct practitioner-client therapeutic relationship, such as those licensed by the state through the Board of Behavioral Science Examiners, shall not be offered by means of correspondence or distance learning."

The Board finds it is difficult to understand how a correspondence or distance learning masters degree could adequately prepare someone to perform counseling or psychotherapeutic services. A student pursuing a graduate degree in psychology at a correspondence school usually only interfaces with one tutor for all the required coursework and misses all of the richness of discussion and socializing aspects of a classroom educational experience.

The Board is very concerned about the limited exposure of having only one tutor for all of the coursework. I don't think we'd find many accredited academic institutions which would allow a single instructor to provide courses in psychopathology, law and ethics, research methodology and counseling theory, etc. During this last exam cycle, we received an application from someone who received all his master's degree coursework from the same tutor. This tutor also provided supervision of all 3,000 hours of clinical experience and personal psychotherapy to this applicant. The Board wanted to deny this application but was advised by counsel that under existing law, this situation is not prohibited. This can only happen because the usual pattern is for a student to select his or her tutor for all the coursework including the practicum. There is no requirement that this tutor possess the degree for which he or she is providing graduate coursework. Correspondence schools would argue that possession of a MFCC license meets the requirement of Section 205(c) that "the faculty shall have graduate academic training and degrees and/or professional experience appropriate to their teaching assignments and consistent with institutional purposes." It is important to remember that there was a 20 year grandfathering period for the MFCC license and that many current licenses have degrees in divinity, education, rehabilitation, etc. which would not qualify for licensure today. In fact, the draft language of Section 205(c) would still allow one student to have only one faculty member who does not have a master's or doctor's degree in the field they are providing coursework. Therefore, we would recommend that the commission require that students enrolled in MFCC degree programs should receive coursework from more than one person and that each student should be served by at least one faculty member who possesses an academic degree from accredited universities. Here are some examples:

1. One student took all coursework at CSU LA. He failed the comprehensive examinations and then transferred all of his coursework to a California approved school. He then wrote a thesis and was granted a degree.

2. Many students only wrote thesis to cover 10 course requirements. In one such case, the thesis was on eating disorders. In order to meet the course requirement in Research methodology, the writer discusses her own research methods and examines the relationship of Erickson's stages of ego development to her original theories concerning the therapeutic use of dreams. Throughout the rest of the thesis, the applicant shows no apparent content relating to central MFCC course content topics.

3. To qualify for a master's degree in psychology, one applicant submitted a thesis entitled "Self-Concept and the Pursuit of Success." It is based on experience with a group of Amway distributors who were "reasonably successful in life but disatisfied with their business progress." The outcome was a handbook "designed for use with any group of people desirious of increasing self-esteem." This does not deal with family adjustments or other MFCC topics. Moreover, the transcript indicates that all the units applied to the 10-course contents came by way of "prior learning evaluated and credited three course equivalent papers by the school. However, prior coursework at the University of Dayton (in education) reflected transfer credits on the new California transcript, which appeared strongly incompatible with MFCC learning content requirements.

4. One applicant had a master's degree in dance from UCLA. She was admitted to a California approved college on June 1, 1985 and was advanced to Ph.D. candidacy only four months later after completing five of the 10 content areas at the approved school.

5. One applicant completed a Ph.D. in Biochemistry at the University of Tasmania in 1981 but appears to have no undergraduate or graduate background in MFCC studies. He nevertheless completed his masters program in marriage, family and child counseling at a California approved school in nine months while earning 29 hours per week of experience hours.

As I understand it, approval to issue degrees is based on the comparability of instruction that is provided by accredited universities. If that is the test then representatives from accredited institutions should participate in the approval process. Several years ago, I was invited to observe a site visit conducted by PPED. I was struck by the fact that all of the members of the approval team were principals in other approved institutions except one assistant professor from a CSU campus. If there is to be only one team member from an accredited university, than it should be the Chief Academic Officer of that University, or his or her designee who is authorized by the university to express opinions on what coursework is or is not comparable to that provided by an accredited institution.

I would also urge the commission to be as specific as possible regarding the approval of institutions who will be issuing one of the seven degree titles which qualify for MFCC licensure. You have an opportunity to add some quality assurance components to the college approval process. In these degree programs, it is essential that appropriate standards are articulated and monitored because of the direct impact on consumers of psychotherapeutic services. Historically, there has been too much "flexibility" which allow schools to issue degrees in the absence of an appropriately trained registrar, of any knowledge of current standards with regard to transfer credit or life experience credit, and without any scholarly expertise to design and provide the coursework.

We hope that the Commission will also be very specific about the process of withdrawing approval from degree granting institutions which engage in practices which would not be tolerated in an accredited institution. We fully recognize the enormity and the difficulty of the Commission's task in formulating new regulations and standards for degree granting academic institutions. We would be glad to assist in any way we can.

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Testimony of Rene R. Champagne
President, ITT Educational Services, Inc.

Before the California Postsecondary Education Commission
Proposed Regulations for Approving Degree-Granting Institutions
Sacramento, California
June 26, 1990

Good day ladies and gentlemen of the Commission.

My name is Rene R. Champagne. I am the president and chief executive officer of ITT Educational Services, a wholly-owned subsidiary of ITT Corporation and one of the nation's largest providers of quality postsecondary career education by virtue of our 38 degree-granting schools located in 18 states operating under the name ITT Technical Institute.

We have 7 taxpaying ITT Technical Institutes in the state of California with more than 3,200 full-time students pursuing degrees, at the baccalaureate and associate levels, in technology-based programs focused on science, math and physics subjects. The majority of our student census, 51 percent, is comprised of minorities--Hispanic students represent 32 percent of the student body, Asians 11 percent, Blacks 8 percent and Whites 49 percent. Graduates of our California schools have obtained employment with firms such as: McDonnell Douglas, Ford Aerospace, Boeing Aerospace, TRW, Hewlett-Packard, Xerox, AT&T, General Dynamics and many others. We are justifiably proud of our accomplishments and of our positive impact upon the economy of this state and upon the individual students whose lives we have been able to change for the better.

I appreciate the opportunity to address you today with my comments about the proposed regulations for approving degree-granting institutions. I share the legislature's desire for quality education and consumer protection for active and prospective students.

I have submitted to you copies of written comments which are more extensive than time permits me to verbally comment on today.

Let me begin by saying that I am particularly concerned by the Commission's decision to exempt degree-granting institutions regionally accredited by the Western Association from these proposed regulations. This exemption is clearly discriminatory and may very well be viewed as a violation of federal anti-trust laws because the exemption prevents fair and equal competition within the higher education business arena. I respectfully urge the Commission to either exempt all degree-granting schools accredited by associations recognized by the U.S. Department of Education or include all under the proposed regulations.

The proposed regulations for approving degree-granting institutions go well beyond the intention of insuring quality instruction and student consumer protection as envisioned in SB 190. For example, proposed regulation 202 would, in effect, emasculate the rights of a private business by requiring the creation of a new oversight board empowered by the state to establish policy for the institution, to create long-range plans for the institution, to appoint and evaluate the chief executive officer of the institution (who will be prevented from acting as a voting member of the board), and the board will be responsible for maintaining the fiscal health of the institution. This board concept has little relevance for a private corporation which already has its own board structure.

No fiscally responsible corporation would abdicate its decision-making powers to an "advisory board," nor would it open its private financial records to the scrutiny of non-professionals in the field of business in which it operates. To do so would be the most serious breach of its fiduciary responsibility to its shareholders. The time tested rights of private capital investors in our free enterprise system to determine how their organizations will be organized and managed must be upheld and free of any governmental interference. I strongly urge the Council not adopt the proposed regulations as I believe they venture well beyond the authority of the SB 190 and may very well be seen as unconstitutional in a court of law.

Likewise, the various proposals referring to the role of the faculty seem more intent on imposing a de facto faculty union environment upon an employer than to protect the consumer interest of the students which was the intent of the legislature. We object to the definition of a faculty member as a person "under contractual obligation to the institution" as it prescribes the exclusive method of hiring and retaining instructors in a school. We fail to see how the public welfare or the best interest of the students are served by forcing a school to enter into a contractual obligation with a faculty member. To mandate that this employment relationship be memorialized in a written, binding contract runs afoul of the fundamental freedom of choice that each person, whether natural or corporate, enjoys in this country, and is an impermissible intrusion of a regulatory body into private affairs.

We object to the proposed regulation requiring that faculty of the institution be given substantive rights in the governance of the institution in matters concerning the education program, student admission requirements, degree requirements, the hiring of faculty and other matters of institutional policy and practice. This regulation selects a class of the institution's employees and creates a disproportionate sphere of influence for them, to the detriment not only of other school personnel who may be of equal importance to the ultimate success of the student in the school and in his or her career, but perhaps to the students themselves. To favor any particular class of school employee, to create unequal and unwarranted influence for any one group, would detract from the school's mission and diminish our ability to fashion our curriculums to meet our institutional outcome objectives and the needs of the eventual employers. We are responsive to the input of all employees involved in the common mission of educating a student and preparing him or her for the workplace, and we look to each such employee for his or her input in areas relating directly to their area of responsibility and expertise. This includes faculty, but it does not include them exclusively. These faculty-oriented proposals far exceed the intent of the legislature, intrude upon the management rights of a private free-enterprise business, and serve no public interest.

Regarding the proposed regulation mandating general education requirements for all bachelor and associate degree programs, we believe the Commission has failed to properly differentiate between private degree-granting career institutions from those offering more traditional academic degrees. We respectfully submit that there is no real value added to the student's educational experience by simply forcing them to repeat subjects more properly taught at the secondary level. Perhaps it is lamentable that more students are not attracted to the traditional liberal arts, but forcing them to revisit those courses as a prerequisite to receiving the technical education they are truly interested in seems to us to be a pointless exercise and may very well dissuade many from pursuing postsecondary career education containing such subjects. Students who attend private career schools do so because they have been disappointed or uninterested in traditional curriculums. Mandating the inclusion of specific general education courses into curricula will not enhance our graduates employability in his or her chosen career field.

Conspicuously absent in these proposed regulations is the concept of consumer protection so strongly emphasized by the legislature. Certainly the Commission recognizes that virtually all California citizens pursuing postsecondary education do so in hopes that such education will lead directly to employment upon graduation. In the spirit of true consumer protection, the Commission is obligated to insist that all postsecondary institutions publish their degree program completion rates as well as the job placement rates of all graduates of those degree programs. How better can the state serve its citizens interested in postsecondary education than to mandate that all postsecondary institutions disclose their student outcomes? Public disclosure of student outcomes will allow prospective students and parents to make more fully informed decisions and I suspect, public disclosure of students outcomes will provide the required impetus to improve the quality of education in certain institutions.

In conclusion, I again thank the Commission for the opportunity to testify today. I am willing to answer any questions the Commission may have of me.

cjm

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Proposed Regulations for Approving Degree-Granting Institutions
(Education Code, Section 94310)

Article 1. General Provisions

Sec. 100: Definitions
Subparagraph (g)

The definition of a faculty member as a person "under contractual obligation to the institution" seems to prescribe the exclusive method of hiring and retaining instructors in a school. We fail to see how the public welfare or the best interest of the students are served by forcing a school to enter into a contractual obligation with a faculty member. Institutions and faculty should have the freedom to enter into whatever arrangements they mutually choose. To mandate that this relationship be memorialized in a written, binding contract runs afoul of the fundamental freedom of choice that each person, whether natural or corporate, enjoys in this country, and is an impermissible intrusion of a regulatory body into private affairs. The requirement of a binding contract is not rationally connected to any public welfare goal, and indeed seems to be designed to protect the faculty member rather than the student, whom the statute is truly designed to protect. Forcing institutions to enter into contractual relationships with its faculty does not in any way contribute to the quality and continuity of the education environment. The regulation further fails to recognize any category of faculty other than contractually-bound faculty and adjunct instructors. Our schools function very efficiently with our current system of hiring our faculty as at-will employees, free to leave

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Sec. 120: Notification of Substantive Changes

While the concept of prior notification to the Council for certain changes in the status of the institution is a sound one, the regulation overreaches the proper bounds of regulation when it requires the prior approval of the Council to a change of ownership or a shift in the financial control of the institution of more than 25 percent. This requirement is an impermissive prior restraint on alienation, and serves no valid purpose. The Council has an adequate remedy for the harm this regulation is designed in part to prevent by simply refusing to grant re-approval of the institution if the financial strength of the new owner of the institution fails to meet the minimum standards for financial strength dictated by the Statute. The risk of non-approval then shifts to the contracting parties.

Article 2: Standards

Sec. 201: Institutional Mission, Purpose, and Objectives

This regulation requires that the institution develop a statement describing its mission, purpose, and objectives which differentiates itself from other educational institutions. (emphasis added.) We fail to see what purpose is served by requiring each educational institution to attempt to describe its mission as one unique to that sector of education in which it operates. Perhaps this can be worded more artfully to more clearly convey the authors' meaning. We also fail to see what relevance to one's educational mission the "profit/not-for-profit" distinction

	has. (An educational institution's tax status should not be treated differently than that of any other business entity. The State of California does not require other business to publicly describe itself as "profit or not-for-profit".) This language should be removed.
202: Governance and Administration	The requirement that each institution be "governed" by a board of overseers is one borrowed from the classic, traditional concept of academia, where a group of business people, academics, and often representatives from other walks of life function as a body to review the operations of the institution and provide direction to the school administration. This concept has little relevance for private career schools, which by their very definition suggests the presence of a corporate body with ultimate responsibility for the efficient management of the school and the ultimate delivery of the education the student has contracted to receive. This regulation imposes an additional, unnecessary layer of bureaucracy which is redundant to what is already in place in any proprietary institution and inconsistent with the freedom any business needs to operate efficiently. For example, to whom would the "chief executive" of an institution report to under the concept suggested by the regulation? Would he or she report to the board mandated by the regulation in addition to the normal reporting process the corporate owner of the institution requires? Do the authors of the regulations suggest that the board mandated by the regulation replace the normal chain of reporting required by the corporate owner? If so, this is another impermissible and pointless interference into the freedom of a

business to make decisions concerning matters affecting its operations, especially matters concerning personnel.

Sec. 202:
Subparagraph (b)

Option 2 is clearly unworkable. No fiscally responsible corporation would abdicate its decision-making powers to an "advisory board", nor would it open its financial records to the scrutiny of non-professionals in the field of business in which it operates. To do so would be a breach of its fiduciary responsibility to its shareholders. Option 1 is also not a practical concept. A financially disinterested board member, in the suggested 20 percent ratio to employees of the institution, would not have any real influence over the board, nor would he or she have a veto power. This "independent" representative could not practically serve as an ombudsman or as the "conscience of the board", and indeed, this regulatory role is properly one of the Council, empowered by the provisions of 94310. ITT Educational Services has convened an advisory committee in each city in which we operate, made up of representatives from the companies which employ our graduates, which advises each of our schools on each of the curriculums we teach. We have found these advisory committees to be of invaluable help to us in revising our curriculums to incorporate the latest technological changes in the industries in which we educate our graduates to work. We respectfully suggest that this type of advisory committee would be more practical and workable than that suggested in Option 2. We further strongly urge that the Council not adopt the proposed regulation imposing a governmentally-mandated board onto the already existing corporate reporting structure which each proprietary institution now employs.

Sec. 202:
Subparagraph (g)
Faculty Participation
in Governance

This proposed regulation requires that the faculty of the institution be given a voice in matters regarding the education program, student admission requirements, degree requirements, the hiring of faculty and other matters of institutional policy. While we agree that the suggestions of the faculty concerning the content of the curriculum and how it should be delivered to the student may often be helpful in the curriculum-planning process, the faculty's role must not extend to "other matters of institutional policy" such as student admission requirements and faculty hiring. This regulation selects a class of the institution's employees and creates a disproportionate sphere of influence for them, to the detriment not only of other school personnel who may be of equal importance to the ultimate success of the student in the school and in his or her career, but perhaps to the students themselves. The fundamental distinction between our sector of higher education and the traditional four-year university method of education is our focus on the ultimate student outcome our system is designed to produce--that of preparing our graduates to be productive members of the workforce, and in launching those graduates into their first job in what we expect to be a long and productive career. It is the obligation of the management of this private degree-granting career school to do everything in its power to insure such a successful outcome for each student who chooses to attend the school. Indeed, it is the management of the school, not the faculty, from whom the student consumer will seek redress if the school fails to properly deliver the contracted services. Those who bear ultimate accountability for outcomes must bear the ultimate responsibility for deciding by what methods those outcomes are to be achieved. To favor any particular class of school employee, to create unequal and unwarranted influence for any one group, would detract from the school's mission and diminish our ability to fashion our curriculums to meet our institutional outcome objectives. We are responsive to the input of all employees involved in the common mission of educating a student and preparing him or her for the workplace, and look to each such employee for his or her input in areas relating directly to their area of responsibility and expertise. This includes faculty, but it does not include them exclusively.

Sec. 203: Curriculum
Subparagraph (b)

This proposed regulation, as written, gives to the faculty member by legislative fiat the absolute right to "develop, evaluate, and revise the curriculum." While the input of the faculty certainly should be encouraged and given great weight to, the ultimate responsibility for the development of the curriculum must rest in the hands of those who bear the ultimate responsibility for insuring that the school's institutional outcomes are met. As we have stated, the foremost outcome which our schools strive to achieve is the successful completion of the student's education and the placement of that student in a job for which the student's education has prepared him or her. This commitment to not only educating the student, but in placing the student in the workplace, is one of the key distinctions between degree-granting private career education and traditional education, and is indeed the very feature which attracts the potential student who is not drawn to traditional postsecondary educational schools and affords him or her the opportunity to receive the type of education which matches his or her special career goals and desires. Because our schools are outcome-oriented, we must retain the flexibility to alter each curriculum to meet the changing needs of the employer for whom the students aspire to work upon graduation. To abdicate totally to the faculty the decision-making power over curriculum content is inconsistent with the flexibility needed to tailor our courses to the changing needs of the employer. A responsible private degree-granting career school committed to the success of its students will look to the employers who hire the school's graduates for input into what skills the workplace demands, and will design the curriculums to meet the needs of the workplace. The employers' concept of what the curriculum should contain often may be inconsistent with the thoughts of the faculty, who however skilled they may be, are not in a position to monitor constant technological changes in the workplace and assess what type of skills are needed to meet the changing needs of the employer. While faculty input is certainly critical to the design and revision of the curriculum, it can in no way be the exclusive input into the decision-making process if private degree-granting schools are to fulfill their mission of educating and placing students in the workplace, ready to begin work from day one.

We are finding that curriculum development, as a job responsibility, requires more experience and expertise than the average member of faculty possesses. We employ curriculum development specialists whose sole responsibility is to remain current with employer needs, available classroom technology, new textbooks, etc. We view the role of faculty to be specifically oriented to the student--educating, tutoring, advising--and therefore, they should not be burdened with responsibilities which detract from their focus on the student.

Further, for educational organizations such as ours with numerous campuses, exclusive faculty responsibility for designing curriculums would lead to as many variations of the same basic curriculum as there are faculties designing curriculums. Students are best served by a standardized curriculum, consistently-applied throughout the common educational organization. They would be ill-served by curriculums which vary widely from school to school based upon the varying tastes of the individual faculties involved. Standardized, centrally-developed, consistent curriculums are in the best interests of the students who attend private degree-granting career schools and by the employers who hire them.

This regulation would be vastly improved by the deletion of the word "develop" and the insertion of the word "help" before the word "evaluate," and by removing the second sentence such that the regulation would now read: "The faculty, both individually and collectively, shall help develop, evaluate, and revise the curriculum."

Sec. 205: Faculty, including their qualifications
Subparagraph (a)(1)

This regulation requires schools who predominately educate through classroom instruction to maintain a ratio of full-time equivalent students to full-time equivalent faculty of 25 to 1. ITT Technical Institutes use applied learning methodologies to educate students in which 50 percent or more of the institution is provided in technology laboratory environments which this regulation is silent on. Within the ITT education environment, the 25 to 1 ratio is far too restrictive and unsupported by any research suggesting that a 25 to 1 ratio would enhance the outcome of the institution. Rather, implementation of a 25 to 1 ratio would substantially reduce productivity and significantly increase operating costs and tuition.

Subparagraph (c)

This regulation requires at least three-quarters of an institution's faculty be composed of instructors holding "the highest degree in the academic discipline from an accredited institution." Not only does this requirement go well beyond the standards set by regional accrediting associations which accredit some of the nation's leading research universities, (such as Northwestern University, the University of Chicago, and Stanford), it is totally inappropriate for private degree-granting career schools which offer students degrees in technical disciplines designed primarily to lead to employment in the field for which the student is educated. In fact, consistently absent throughout these proposed regulations is the recognition that degree-granting schools which specialize in career education differ significantly in their mission and methodologies from traditional four-year colleges and universities. This is a difference which must be preserved if California's educational system has any hope of coping with the increasing demand for technically-skilled workers, a demand which all available statistics show will continue to explode in the state in the coming decade. This demand will not be met if the Council enacts regulations which ignore the fundamental difference between academic and career oriented degree-granting institutions and instead attempts to lump all degree-granting schools within the same generic definition, with the same standards and requirements, without recognition of the various roles each sector plays in the California educational system, and without recognition of the differences in the students served and their varying needs and educational goals.

For most students who choose to pursue degrees at private career schools specializing in technical education, a primary attraction of the school, and the reason they chose this type of education over the more traditional system, is the opportunity for hands-on learning with instructors who have gained valuable technical experience in the fields in which they are teaching. At ITT Technical Institutes, students spend half their time in theory classes studying science, math and physics subjects and half in labs, so that they can immediately practice what they have just learned. The emphasis is on practical, applied learning and students are taught,in addition to fundamental theory, the skills and knowledge which they will actually need in the workplace. This hands-on education is most often and most productively provided by instructors who have learned how theory is translated into practice in the real working world. In the ITT Technical Institute type of education, experience in the field is overwhelmingly the superior qualification and redounds to the benefit of the student much more than a higher academic degree the instructor may have earned in the theories of the discipline. For example, logic would suggest that students pursuing a two year occupational associates degree in electronics engineering technology are better served by an instructor with, for example, three years of practical experience working as an electronic technician than by an instructor who, for example, spent those same three years writing a doctoral thesis on some arcane aspect of electronics technology theory. Yet, as the regulations are now written, only such Ph. D. holders will be allowed to teach students the hands-on skills they will need to begin a meaningful job immediately after graduation. (Only 25 per cent of the faculty would be excused from this requirement.) There is no rational basis for this regulation's requirement that 75 per cent of the faculty hold the highest academic degree in the discipline which they teach. Is there some empirical data which proves, or even suggests, that those who have successfully completed the requirements of Ph. D. are more qualified to teach students the skills they will need to function effectively on the job than those holding lesser degrees or those whose expertise has been gained in the field?

This regulation is extremely impractical; there is currently a serious shortage of Ph. D.'s in this country and no private degree-granting career school could find enough Ph. D's to form 75 per cent of its faculty. The practical effect of such a regulation would be to effectively disenfranchise a vast segment of the California college-aged population--i.e., those seeking occupational degrees from private schools--as no such schools would be available to cater to their unique educational goals, goals which deserve as much a chance for fulfillment as those of any other student in the state of California. Implementation of this regulation will significantly increase labor costs without a corresponding benefit in student outcomes.

We respectfully propose that the Council enact instead a regulation based upon the standards of the accrediting bodies which traditionally accredit technical schools, such as that of the national Association of Trade and Technical Schools (NATTS), which require that instructors have at least three years of practical experience in the occupation or subject which he or she teaches, is trained to teach, and is able to demonstrate a command of theory and contemporary technical knowledge and continuing study of his or her particular subject field. Instructors are obligated to keep up to date with the most recent technical innovations in their particular areas.

Sec. 205:
Subparagraph (e)

This regulation requires that all degree-granting institutions retain at least 50 percent of all faculty hired for at least two successive academic years. We view this requirement as arbitrary with no research to support it. This regulation is yet another intrusion into the rights of a private employer to hire and fire "at will".

Sec. 205:
Subparagraph (g)

To reiterate arguments made earlier, there is no reason to single out an institution's faculty for special, discriminatory treatment such as this proposed regulation's provision that the faculty have some defined role in screening new colleagues on the teaching staff. No other personnel in the institution are granted the opportunity to pass upon the merits of those who may be hired to perform similar functions. More ominously, this proposed regulation attempts to remove from a private business enterprise the fundamental right to make decisions concerning whom it chooses to employ. The regulation stops short of prohibiting school management from terminating any faculty member for cause or in the best interests of the school, but that prohibition is implicit, and would be effectively forthcoming as a result of the enactment of a policy suggested by this proposed regulation. This proposed regulation effectively divests a school's management of decision-making autonomy over its faculty personnel needs and empowers existing faculty members with an effective veto power over such decisions. This is an impermissible intrusion into a fundamental right of private enterprise to make hiring and firing decisions within the bounds of existing state and federal law, and is without any rational connection to the needs of the parties for whom the Statutes were enacted to protect--the students. This regulation smacks of a "faculty protection" provision rather than a student protection provision. It is hard to conceive of how the student's best interests are served by giving the faculty veto power over the hiring of other faculty members or by injecting faculty into the decision-making process.

Sec. 205:
Subparagraph (i)

We respectfully suggest that the Council consider very carefully the repercussions of enacting this seemingly innocuous regulation that the institution adopt a written policy on academic freedom. "Academic freedom" is an amorphous concept incapable of precise definition, but if academic freedom is interpreted to mean that a faculty member can arbitrarily alter a standardized curriculum or lesson plan if that instructor finds it inconsistent with his or her teaching philosophy, then this regulation has very serious negative consequences for the consumer who the Senate attempted to protect--i.e. the student. Students are best served when there is a stable, consistently-applied curriculum not subject to continual alteration according to each instructor's educational philosophy. Students should have the fundamental consumer protection safeguard of receiving instruction as it is described in the school catalog and according to the description of the course filed with the applicable federal, state, or accrediting authority. To some, academic freedom is seen almost exclusively the right of faculty, at the expense of the private proprietor and the student consumer, and creates a defacto union environment establishing privileges for the faculty without commensurate accountability for student success. We strenuously object to the Commission's inclusion of the requirement of an institution to develop a written policy creating a discriminatory work environment by

	catering to one class of employee at the expense of others.
Sec. 206: Facilities Subparagraph (c)	As a practical matter, this proposed regulation which requires that the institution document that the facilities are adequate and available for the duration of the degree program which they serve, which is obviously designed to protect the student from the interruption or termination of classes due to the loss of the school facility, is impractical in its literal meaning. For example, on a ten year lease, the institution would have to stop enrolling students in a two-year program at some point in the eighth year of the lease if that enrolling student would not graduate from the course before the lease ran out. A school could not survive financially if enrollments were to stop for a two year period. Some clarification of how such a scenario would be handled by the Council would be welcome in the adoption of the final regulations.
Sec. 207: Financial Resources Subparagraph (a) (1)	If intangible assets are not a current asset as defined in this proposed regulation, then by the same token unearned tuition, which is not paid out in cash, should not be considered a current liability. Many of the intangible assets are the result of money spent to obtain the unearned tuition and in fact many schools offset these prepaid amounts against unearned income in their balance sheet presentations. We would agree that goodwill and other such items should be excluded but not such items as marketing costs, commissions, etc.
Sec. 208: Administrative Personnel Subparagraph (b)	This proposed regulation, which requires the chief academic officer of the institution to hold an

	academic degree equal to the highest degree required of the faculty, bears no rational basis to protecting the interest of the student, and should be rejected for the same reasons discussed in 205 (c) above. (Should the Council enact this regulation, we urge that all incumbent chief academic officers who fail to meet the newly imposed standard be granted a "grandfather clause exemption" as long as they remain in that position in that school.)
Sec. 210: Tuition, Fees, and Refund Schedule Subparagraph (g) (2)	We believe that a typographical error has been made and that the number "60" in the third section of the second column should read "50." Otherwise, the provision is not logical. The definition of the word "term" as used herein should be clarified. If "term" is defined to mean the length of period that the student has enrolled, (e.g. eight quarters), then the concept of this provision is sound, but if "term" were to mean the quarter that the student is currently attending, the concept is flawed. The refund policy for students enrolled in the second or later quarters should be different since the student has had experiences at the school before they continue into the second and later quarters.
Sec. 211: Admissions Standards Subparagraph (b)	We suggest that a clarification of the phrase "college degree programs" should be made in the adoption of the final regulations.
Sec. 213: Scholastic Regulations and Graduation Requirements Subparagraph (c) and Sec. 217: Degrees Offered Subparagraph (b)	Private degree-granting career schools offer students who wish to pursue a degree beyond high school a unique opportunity to maximize their time and effort in pursuing their degree by concentrating exclusively on the field in which they choose to specialize as a career. Students

who have been disappointed or uninterested in the traditional curriculums offered in their secondary schools find the opportunity to concentrate exclusively in their field of interest as a particular advantage not available to them through other postsecondary educational institutions. While we understand the desire of the Council to invest more legitimacy into the occupational associate's degree by incorporating into an essentially technically-oriented degree an element of those courses which have been traditionally thought of the basis of a good liberal arts education, we respectfully submit that there is no real value added to the student's educational experience by simply forcing them to repeat subjects which held no fascination for them in secondary schools and fail to enhance their employability in their chosen career field. Perhaps it is lamentable that more students are not attracted to the traditional liberal arts, but forcing them to revisit those courses as a prerequisite to receiving the technical education they are truly interested in seems to us to be a pointless exercise and may very well dissuade many from pursing postsecondary career education containing such subjects.

Sec. 216: Student Activities and Services Subparagraph (c)

We recommend that the Council strike this entire paragraph and replace it with a requirement that postsecondary degree-granting institutions divulge to all prospective enrollees and the general public the job placement success for all graduates in the most recent calendar year that ended not less than 18 months prior to the date of disclosure. Certainly the Council recognizes that virtually all California citizens pursuing postsecondary education do so in hopes that such education will lead directly to employment upon graduation. In the spirit of true consumer protection, the Council is obligated to insist that all postsecondary institutions publish such placement statistics. Further, the Council, in carrying out its responsibilities to protect the student consumer, should promulgate a regulation requiring all postsecondary institutions to disclose the completion rate for students in each program of instruction, including pre-requisite subjects leading to program completion. This rate would be calculated by determining the percentage of students enrolled in the course of instruction who, at the time of enrollment, were originally scheduled to complete the course of instruction in that calendar year who successfully completed the course of instruction in the amount of time normally required to do so and as described in the school's catalog, (for example, 4 years, 2 years, etc.) Public disclosure of completion rates will allow prospective students to more fully make an informed decision than is possible without such information.

Sec. 216:
Subparagraph (e)(2) & (3)

Schools can not be mandated to disclose lodging costs of facilities they do not run. To require institutions to do so will lead to many student complaints of misrepresentation when landlords implement rent increases. We fail to understand the reasoning behind the required statement that "It is not sufficient to specify in promotional materials, that an institution's program is "non-residential".

STATEMENT OF RICHARD L. CREWS, M.D., PRESIDENT OF COLUMBIA PACIFIC UNIVERSITY, TO THE CALIFORNIA POSTSECONDARY EDUCATION COMMISSION

JUNE 26, 1990

I appreciate the opportunity to appear before this body to deal with the proposed regulations for private degree-granting institutions. (California Education Code, Section 94310). A legal memorandum addressing constitutional, statutory, and rulemaking deficiencies of the proposed regulations is attached.

Several years ago, I served as Chairman of the Special Education Committee which reported to the Legislature with recommendations for amending the Private Postsecondary Education Act of 1977. The legislation, as amended in 1984, provided California students with an expanded vista of higher education. In particular, those former students and adults who wanted to complete a university education, while continuing to work at their jobs, now had a means to obtain that education. Diverse and innovative educational delivery systems were provided by approximately seventy fully approved institutions throughout the state, serving at least 15,000 students. The proposed regulations we are considering today would end that public purpose.

I. Background

Since 1986, Columbia Pacific University (CPU) has functioned with full institutional approval under California Education Code Section 94310.2. The University believed that state approval was going to provide a reasonable alternative to regional accreditation. The language of the 1984 legislation expressed the intent of the legislature to provide for a state-operated review process which would establish a state certification of curriculum, facilities, and academic objectives consistent in quality and comparable to those of regionally accredited institutions. This was expected to create a viable parallel alternative to the accreditation process.

There were a number of reasons for this expectation. The wording of antecedent legislation in 1977 explicitly directed the Superintendent of Public Instruction to seek reciprocal interstate and national recognition. Historical parallels and precedents (most notably in New York State but *de facto* for numerous state university systems) supported this expectation. The considered judgment of knowledgeable authorities (the then Director of the Office of Private Postsecondary Education among others) led us to expect that the California approval process would in time be recognized by the U.S. Secretary of Education. Nothing was done.

There are several reasons why this development, had it occurred, would have been of benefit to California higher education. It could have provided an alternative path for new and innovative patterns of educational delivery without diminishing the accrediting associations' opportunity to maintain their traditional majority rule of like-minded institutions. The importance of experimentation and innovation in education is frequently proclaimed in theory, but all too often curtailed in practice. Mutually respectful coexistence of approval and accreditation seemed to offer a resolution of possible conflicts between innovation and tradition.

Recognition of the full approval process also offered a unique advantage for accredited institutions and accrediting associations which, at least since 1966, have faced the possible threat of antitrust action because of restraint of trade. The recent and continuing investigation by the U.S. Department of Justice regarding financial aid and admissions "agreements" among accredited institutions sounds a renewed and ominous warning. On the positive side, these and other developments provide a potent reminder of the need for accredited institutions and accrediting associations to permit--even respect and defend--the rights of alternative forms of educational delivery. Our nation, and increasingly, our world, have come to realize that the voice of dissent, the voice of innovation, the voice of each new constituency seeking to be heard, deserve our respectful protection for the sake of all our own freedoms.

In addition, full approval, as a responsible alternative to accreditation, offered advantages to accreditation associations if only as a sanctuary for programs serving special populations. Such groups as the elderly, mid-career profession-changers, the sensory- and motor-handicapped, and the geographically isolated present special challenges for higher education. They deserve innovative approaches. Institutions that reach out to them, even ones that present unusual profiles, deserve some indulgence as, at least, the conscience (if not also, potentially, the leading edge and future promise) of the education industry. Approval was designed to be, and could have been, a responsible forum for supervising institutions serving nontraditional students in innovative ways.

Finally, in a world percolating--if not seething--with rapid changes and rushing forward--if not careening--with progress, it behooves education authorities to support and guide interesting and responsible innovations in their field. Constricted thinking akin to digging in one's heels and trying to stuff new developments into previously established molds is fatal. Higher education is clearly breaking away from, and increasingly functioning outside of, traditional academia in many ways--in the corporate world (as executive seminars), in professional circles (as continuing education for relicensure), in popular acquaintanceship with the leading edges of computer technology, in new forums for understanding international communications and finances, in new possibilities and links for international cooperation, and elsewhere. Accreditation authorities should have supported and defended the responsible independence of the California State approval process as one alternative licensure for higher education, outside of traditional accreditation but with visible and legal bounds.

However, history has not taken this course. In the discussion and debate surrounding SB 190, it has become clear that the regional accrediting agency regards any institution not affiliated with it through membership as inferior, bogus, fraudulent, etc.

For example, the Executive Secretary of WASC's Senior Colleges Commission claimed in early 1989 that California unaccredited institutions were "ignored by the community of accredited institutions" and even "held in contempt" by that community. (The Tangled Thicket, pp. 6-7). The same attitude has been expressed by some members of your Commission.

Let me deal at the outset with the false claims and charges leveled against CPU over the past few years. Without stooping to a mud-slinging contest, I'll give you an example. Last summer, a former CPU student appeared on a television documentary program, claiming to have been awarded a Ph.D. degree for ludicrously inappropriate credits. He displayed a CPU diploma, which had been doctored with added language. This individual has since visited our offices and has admitted that the gross misrepresentation about CPU's degree-granting standards was cooked up by the program's producers.

CPU informed the Commission staff of these misrepresentations last summer (see letter dated August 15, 1989 attached). This did not inhibit a CPEC staff member from repeating the false charges to a reporter from the Orange County Register this spring. (May 23, 1990 article attached). Indeed, in April 1989, this CPEC staff member had distributed to "PROANDI Members" (whoever they may be) other press clippings, some of which attacked CPU, as part of CPEC's effort to develop "greater public awareness" of an alleged lack of oversight of non-accredited colleges and universities.

III. Objectionable Proposed Regulations

I won't repeat the substantive legal infirmities of the proposed regulations, as shown in the attached legal memorandum. Let me deal with some of the major deficiencies from the practical and administrative viewpoint of a university president. Perhaps, my observations will uncover for you Commission members, who are institutional faculty or administrators, matters which have never occurred to you.

A. Discrimination by Exemption

1. I don't fully understand the concept of equal protection of the law. I do know that California Courts struck down a statute which treated lawyer lobbyists differently from lay lobbbyists. I call that discrimination. For example, WASC-accredited institutions are almost entirely exempt from the proposed regulations, because of exemptions spelled out in the statute. Under these exemptions, WASC-accredited institutions:

- *don't* lose any right to enforce student contracts, to retain student fees, or to have their approval continued without revocation (SB 190, § 94342).

- *don't* have to pay their fair share of funds to the Private Postsecondary and Vocational Education Administrative Fund (§§ 94331 and 94331.5).

- *don't* have to secure a statutory surety bond protecting students (§ 94334(c)(2).

- don't have to have changes in ownership or "shifts in control" approved by the new Council (§ 94330(f)-(i)).
- don't have to face a possible 60-day suspension of their licenses by the new Council (§ 94322).
- don't have to have any complaints against them referred to the Attorney General for action (WASC itself will deal with the problems)
- and don't have to suffer sanctions for violations of standards applicable to all other institutions.

In effect, WASC-accredited institutions are exempt from regulation by the new Council.

2. I read these statutory, and thereby rulemaking, exemptions as:

- giving the new Council no effective control over WASC-accredited institutions;
- releasing WASC-accredited institutions from the financial burdens placed on non-WASC accredited institutions;
- denying students of WASC-accredited institutions certain consumer rights granted by statute to non-accredited institutions; and, most serious
- converting WASC into a quasi-governmental body, taking over the regulatory functions of PPED and CPEC.

3. CPU, and other fully approved institutions will be severely harmed financially by this kind of discriminatory regulation, just as were the lawyer lobbyists.

B. Discrimination by Specific Regulation

(1) Instruction

4. The regulations describe three types of instruction: classroom, correspondence, and distance learning. (Rule § 204(b)). But Rule § 104((1) removes the last two types from the list of types of "innovative education."

5. Since 1984, CPU and other fully approved institutions have been regarded as "innovative." (SB 190, 194, §§ 94301 ¶ 2, 94310(d)(3)). The definition in Rule 104(1) is without warrant in the statute and would remove legislative safeguards for fully approved institutions.

(2) Corporation Law

6. The regulations are contrary to, and attempt to override, provisions of California law relating to proprietary and non-profit corporations.

7. These overrides occur in Rule § 202(a)-(b)--requiring five (as opposed to three) directors or trustees, overlapping terms (which would require having at least 5 to 7 directors to accomplish), and requiring twenty percent of the directors to be absolutely "independent." Rule § 120(d) requires approval by the new Council for any "shift in financial control" of more than twenty-

five percent, with Council authority reserved to hold up such clearance beyond fifteen days. This requirement is not imposed by statute upon WASC-accredited institutions and other types of non-profit corporations.

(3) Faculty Assignments

8. The new rules would require CPU to assign at least three full-time faculty members to each student. (Rule § 204(c). Such a requirement would seriously and financially affect the operations of small institutions such as CPU.

(4) Board's Financial Guarantee

[illegible]

9. Rule § 207 requires than an institution "shall guarantee on the authority of its board the assets sufficient to ensure that all students admitted to its degree programs shall have a reasonable opportunity to complete their program and obtain their degree."

10. This "guarantee" obviously involves a personal guarantee by the board members. It is unrestricted and never ending. It violates current corporate law which does not require a director to guarantee or pay corporation debts, unless he has some direct personal involvement.

11. No sane person would become a board member with this sword of Damocles hanging over his or her head. The requirement is outrageous. To require it of non-WASC accredited institutions, but not of WASC-accredited institutions, is discriminatory.

(5) President's Degree

12. To require the chief academic officer, who could be the president of an institution, to hold specified degrees matching the highest degrees of its faculty, is pure mischief. This is the burden of Rule § 208, which should be set aside with no regret.

C. Loss of Property or Rights

(1) Status as "University"

13. CPU will lose its right, established since its incorporation, and confirmed by its authorization and full approval by PPED since 1986, to be styled a "university." (Rule § 100(d).

14. The regulations seek to enforce on California higher education the concept of a "collegiate university" such as Oxford or Cambridge. Their U.S. counterparts are the great California public universities. In the United Kingdom, there developed in the nineteenth century, the so-called "civic" or "red brick" universities. That also has happened in this country, including California. The latter class meet the honorable and historical definition of a university as a corporation for the conservation, dissemination, and advancement of learning, consisting of a group of schools, faculties, or colleges. CPU meets that description.

15. Rule § 100(d) substitutes a bureaucratic definition of a university, based on the model of large California institutions. It requires three colleges, with one granting bachelor degrees, a school granting graduate degrees in the arts and sciences, and a

third granting professional graduate degrees.

16. The cost of any such organizational structure is clearly impossible for a small university such as CPU. Indeed, that is a possible reason for the new definition. Without any authorization from the statute, the rule destroys diversity of higher education in California and requires us to imitate the large public university model. The same reasoning produced in Eastern European countries their so-called "universities" in the Communist Party mold.

(2) Status of Adjunct Faculty

17. Rule § 100(g) does not permit an adjunct faculty member to be included within the definition of "faculty." The rule clearly is an attempt to reduce adjunct faculties in non-WASC accredited institutions, to their financial and educational detriment.

18. Most medium-size institutions, including community colleges, use adjunct faculty, together with a core of full-time faculty. Community colleges are exempt from this requirement by virtue of WASC-accreditation.

(3) Degrees

19. Rule § 213(d)-(f) will prevent CPU from according experiential credit for master's and Ph.D. degrees. Further, no credits may be transferred to a California institution from any other institution for a Ph.D. degree.

20. CPU's correspondence instruction leading to a Ph.D. degree will be terminated by Rule § 217(e). Granting any degrees which "imply preparation for licensure" in professions administered by the State Board of Behavioral Science Examiners is barred for institutions with correspondence or distance learning types of instruction. (§ 217(d)).

21. Both of these sections would deprive CPU of the degree-granting authority which it now has, and has had in the past. In effect, CPU is being denied the right to educate (i.e., to do business), a right which is not being denied to classroom instruction institutions. If the latter can issue master's and Ph.D. degrees, we should be allowed the same privilege.

(4) Due Process

22. Up until December 31 of this year, fully approved institutions like CPU have a right to a hearing on the record before their licenses--or approval--can be revoked or suspended. This is because the State Department of Education is covered by the State's Administrative Procedure Act. As of January 1, 1991, that right will vanish because the new Council will not be part of the Department of Education. This legislative maneuver is not readily apparent unless you look at the statute.

23. I am informed the loss of the hearing right was intentional. The Commission should correct this hidden denial of due process in its regulations, and seek an amendment to accomplish this in SB 194--which, unlike SB 190, specifically denies the

hearing right. This entire matter does not speak well for the legislative and rulemaking process involved in revising California education laws.

IV. Conclusion

With all due respect to the legislative and executive perpersonnel who drafted and enacted SB 190 and SB 194 and have now drafted the proposed regulations, I suggest to the Commission that, after a thorough review of the statutes in the California Education Code, these conclusions are inescapable:

A. The statutes were drafted without full disclosure to, or knowledge by, the Legislature as to the meaning and consequences of the legislation.

B. The drafters were well aware of what was involved. For example, the effect of the provision which bars a non-WASC accredited institution from granting Ph.D. degrees by correspondence is devastating to many institutions, both public and private.

C. The legal problems arising out of, or lurking in, the language of the statutes and proposed regulations should be identified and eradicated by a broad-spectrum group of educators appointed by the Goveneor, in the name of educational advaqncement and the public interest.

D. Recommendations for new Education Code legislation with full recognition of all worthy institutions, regardless of accreditation status, should be put forward to both branches of government. Neither SB 190 nor 194, implemented by the proposed rules, meet this high standard.

E. Meanwhile, new regulations to enforce the present statute, enacted in 1977 and amended in 1984, are needed on an expedited basis, pending new legislation designed to promote the educational opportunities in California for all of our constituencies.

Thank you.

columbia pacific university

COPY

August 15, 1989

Messrs. William K. Haldeman
and Bruce D. Hamlett
California Postsecondary Education Commission
1020 Twelfth Street
Sacramento, CA 95814-3985

Gentlemen:

An article which appeared in the Sacramento Bee last January 29 regarding one of our students, and which contained a number of erroneous statements, has been used in the academic world to vilify and condemn our institution. We were remiss for not writing to the Bee at the time to point our the inaccuracies. But we want you both to be aware of the facts so that you can set the record straight if the subject comes up in the future.

Fact: It is not true that CPU had granted the man featured in the January 29 article, Rene Hollander, "a master's degree in psychology without ever requiring him to take a graduate-level course." He had, prior to enrolling with CPU, taken psychology courses with two accredited California institutions of higher education and this was among the reasons he was accepted by us for a master's degree program. He had also served as a volunteer in the critical care unit of a Los Angeles medical center, as a psychotherapy trainee in a family counseling service, as a trainee in a child abuse prevention unit of an institute for clinical social work, and as a participant in workshops at a state university. All of this was done before he was accepted into a master's degree program with us.

Fact: As a CPU student, Mr. Hollander completed two extensive academic research projects related to psychology under a member of our faculty who has a doctorate in psychology and who characterized Mr. Hollander as having "superb abilities." To correct another error, note that this student earned his master's degree with little weight being given to the managerial skills he developed in operating a successful business.

Fact: There was some indecorous behavior on the part of the student. After graduation he requested that CPU have his degree certificate and transcript altered to convey that he had taken certain clinical psychology courses. This request was denied by every CPU official to whom he applied because no such courses had been taken; no such alteration was made.

Fact: When he presented his credentials and attempted to begin the licensure process, the State Board correctly inquired of the PPED. The PPED consultant

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conferred with a representative of our institution by phone, was apprised of the facts noted above, and advised us that the matter was settled.

Our records are available to prove the truth of the information stated above. We are not a "diploma mill." We have established careful guidelines for assessment of students and their educational work and for assignment of academic credits. Moreover, our institution provides a much-needed resource for mid-career adults who seek academic advancement for professional or for personal reasons, but who cannot leave their homes and jobs, or who are disabled and therefore unable to deal with a traditional residential curriculum.

We serve an important and needed role in the California educational system. Our students, in the vast majority, are grateful for the opportunities we offer them, and they are proud of their accomplishments. I know that now that you are aware of the facts, you will take every possible step to counteract the unfortunate errors which appeared in the Bee last January.

If you have any questions, please don't hesitate to contact me or a member of my staff. I appreciate your help in our efforts to set the record straight.

Sincerely,

Richard Crews, M.D.

Richard Crews, M.D.
President

'Diploma-mill' opponents decry bills easing education standards

By Chris Knap
The Orange County Register

SACRAMENTO — Education reformers who thought they had struck a blow against unaccredited "diploma mills" are worried that their victory will be snatched away before the law takes effect.

Unaccredited colleges — led by California Coast University, a Santa Ana correspondence school — are pushing bills that would roll back stricter standards approved by the Legislature last year.

Three of the senators helping in the effort — John Seymour, R-Anaheim, Cecil Green, D-Norwalk; and Ralph Dills, D-Gardena — have received more than $20,000 in campaign contributions from California Coast.

"The intent of (the reform bill) was to eliminate what we call 'easy degrees.' These bills are intended to water that (effort) down," said Bruce D. Hamlett of the Postsecondary Education Commission, an independent state advisory board who spurred the 1989 changes.

But the senators who have sided with the unaccredited schools said the new standards will hurt some legitimate schools.

"I don't want to see any diploma mills operating in California either, but there are many good, qualified independent schools that will be damaged by (the new law) unless it is cleaned up," said Seymour, who has received more than $10,000 from California Coast and other unaccredited schools since 1985.

Among the mail-order schools cited by Hamlett's commission were the Church of the Harley Davidson, now closed, which declared motorcycle riding a religious experience to obtain a waiver of state standards on its degrees; and Columbia Pacific University, still open, which gave a candidate for a master's psychology degree 42 credit hours for operating an auto-repair shop.

Hamlett said some students, especially those from other countries, don't realize that unaccredited degrees are not accepted in many professions. There is also a danger that consumers could be misled about the qualifications of a teacher or counselor who had attained a degree by mail, Hamlett said.

The reform bill sets minimum standards for all higher-education facilities, but it doesn't become effective until Jan. 1, 1991. Meanwhile:

■ Dills, Green and Seymour, authored a bill that would allow unaccredited schools to say that they are comparable to state universities and other accredited schools. The language, which mirrors a legal clause deleted by the reform bill, "provides a legal sanction for misleading advertising," Hamlett said.

■ Sen. Edward Royce, R-Anaheim, authored a bill that would reinstate an exemption from state standards for any school run by a bona fide church or religious denomination and offering only ecclesiastical degrees.

But Thomas A. Neal, the founder of California Coast University and the only representative from an unaccredited school to testify at a recent Senate Education hearing, complained during an interview that the accredited schools "have lobbied consistently against (us)."

California Coast recruits about 1,000 students a year, mostly from magazine advertisements. Students can earn bachelor's, master's and doctoral degrees in less than a year, Neal said.

Neal said his school's "distance learning" curriculum is "absolutely consistent in terms of quality" with schools such as UCLA.

Campaign-finance reports show that California Coast University gave $36,000 to key legislators between 1985 and 1989, including $9,500 to Seymour, $8,500 to Dills and $2,600 to Green.

Royce aide, Richard Mersereau, said Royce's bill applies only to ecclesiastical degrees, a narrower exemption than that removed by the 1989 law.

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bring in about $628 million in new state revenue.

So far, Deukmejian's only concrete ideas on balancing the budget that goes into effect July 1 are to freeze annual automatic increases for welfare recipients and the aged, blind and disabled.

That, coupled with cuts in other state programs, mostly in the health and welfare area, would save $1.7 billion next year, he estimates.

In the past, the Democratic majorities in the Senate and Assembly have been reluctant to sacrifice the cost-of-living increases. Brown's comments, along with comments made earlier by Senate President Pro Tem David Roberti, D-Los Angeles, indicate at least a willingness to accept Deukmejian's idea.

But Brown, D-San Francisco, stood firm against Deukmejian's proposal to make long-term changes in the formula.

CORRECTIONS

As a matter of policy, the Register promptly corrects all errors of substance. If you wish to report an error or clarification of a news story, call the ombudsman at 953-2204.

■

Robert K. Tuller Jr. is a court commissioner at North Orange County Municipal Court in Fullerton. Because of an editing error, an incorrect location for the courthouse was published in the May 22 editions of the Register.

STATE OF CALIFORNIA
GEORGE DEUKMEJIAN, *Governor*

CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
020 TWELFTH STREET, THIRD FLOOR
AMENTO, CALIFORNIA 95814-3985
) 445-7933

April 13, 1989

TO: PROANDI Members

FROM: Bruce D. Hamlett BH
Director, Legislative Affairs and Budget Analysis

SUBJECT: Interest in California's Non-Accredited Institutions

As many of you have communicated to both JB Hefferlin and myself, California does not have a record for great effectiveness in its oversight of non-accredited colleges and universities. As the enclosed articles demonstrate, we are developing a greater public awareness of this problem. (You might note the quote from Alan Krech in the lead Sacramento Bee article.)

The Postsecondary Education Commission will be sponsoring legislation to implement changes in 1989. This legislation will be based upon three Commission reports that will be completed during the next few weeks, and these reports will be mailed to you when they are completed.

We will soon be sending you information regarding the August 9-11 meeting of PROANDI in San Francisco. Enclosed is a brochure for the hotel, and when you make your reservations, identify yourself as attending the PROANDI conference. Room rates are $95 per day for either a single or a double room.

BDH/dj

Enclosure

DEL MAR
MEDIA ARTS
A FULL PRODUCTION COMPANY

California Postsecondary Education Commision
1020 12th Street, 3rd Floor
Sacramento, California

June 11, 1990

Dear Sirs:

I would like to make the following comments at the June 21st meeting in Long Beach:

Several years ago my husband and I opened an acting school in Orange County. We advertised in the local newspapers for students. A few months into our operation we received a letter from your department stating we must comply with State laws and become a postsecondary school. To make a long story short, we did comply and over the years have met all of the State regulations and paid the many fees required.

During all of this time we have continued to send to your office ads and various forms of proof of other acting schools as we became aware of them but it seems that they have all been allowed to function without your supervision or approval. (Our last count: more than 200 acting schools teaching basically the same curriculum as our studio.)

Now with the passage of AB 1402 we will no longer be eligible for State approval because of the 60-70% disclosure rule.

Acting schools do not place actors in jobs.(And all of our students know this before they ever participate in a class.) In much the same way that a dancer, singer or other kind of artist studies to learn his art, an actor takes acting classes to learn to be good enough to perhaps one day become professional, but this is not guaranteed.

We have never found work for any actor and we do not know of any legitimate school that will make or imply that claim.

There is a desparate need for regulation in Acting and/or Modeling schools but that need is to protect novices from false and deceptive advertising and costly picture scams which are rampant. There is no need for a regulation of "Placement Statistics" since the word "placement" does not exist in the world of acting.

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22600C LAMBERT STREET, SUITE NO. 902 LAKE FOREST, CA. 92630 (714) 859-4426
7317 EL CAJON BLVD. #101 LA MESA, CA. 92041 (619) 589-9919

We also feel that $1200 annual renewal fee for schools whose tuition is only $400 per student is unfair. There is quite a difference in the income of a "$400 per student" school and a "$4000 per student" school.

We would very much like to continue as an approved school. However,under the new requirements, no acting school will ever be able to become approved.

Sincerely,

Marilyn Barth
Artistic Director

Received
6/15/90

SAMRA
Samra University of Oriental Medicine
2828 Beverly Blvd. Los Angeles, Ca. 90057 (213) 487-2672

Mr. William K. Haldeman
Chief Policy Analyst
CPEC
1020 Twelfth Street, Third Floor
Sacramento, CA 95814-3985

Dear Mr. Haldeman:

I will not be able to attend the public hearings on the draft regulations implementing SB 190 and AB 1402. I am, therefore, writing to present my comments in the hope they will be considered in the final formulation of the regulations.

RE: 209. Educational Records

(2)(D) requires "copies of portfolios and other materials employed in assessing prior experiential learning" be kept by the school for each student awarded credit.

Since many of these portfolios are extensive, it is unreasonable to be required to kep everything. Often, the exhibits presented are quite large (paintings, sculptures and other art works), visual (art works, dramatic presentations, constructions, gardens), other sensory (musical performances, acting and oration), or voluminous in content.

It would be preferred if the requirement read "...copies of the basic portfolio, and abstracts or samples of other materials employed in assessing prior experiential learning."

RE: 210. Tuition, Fees, and Refund Schedule
Refund Policy

(g)(2) requires a refund of 60% of the term's tuition for a withdrawal during the first 50% of scheduled classes.

This is an unfair burden on the institution. Most of the expense to the institution, for administration and for teaching, takes place in the first half of the term. If a student withdraws at the 50% point, the more equitable rate would be a refund of 50%, and even that is weighted in favor of the student.

My greatest concern relates to the following regulation:

RE: 213. Scholastic Regulations

(e) states that "no more than six semester units awarded by another institution may be transferred to a master's degree."

That requirement may be applicable to a mater's degree program of one year's duration, or 24-30 semester units. Six out of 24 is equal to 25% of the program.

However, many institutions require more than one year. Our institution has a two year master's program, and there is a tendency throughout the nation for longer programs, especially those with professional orientations.

Transfers among similar two year degree programs is often desireable in order to provide a cross-fertilization of ideas and techniques. Transfers among graduate students is quite commonplace in many graduate majors, and was so when I was a student.

I strongly recommend that a more equitable requirement, especially as a benefit to students, is to state the limit as a percentage of the total units presented for the degree, and that this should be at least 25%:

"(e) No more than 25% of the units required for a master's degree may be transferred from another institution."

RE: 205. Faculty

The requirement for FTE faculty is most confusing.

In a professionally oriented program, such as ours, where it is essential that most faculty be practicing licensed professionals each expert in a particular specialty, we must use the services of a large number of instructors. This is the accepted practice within all of our nationally accredited schools. How this might convert to "full-time equivalents" is not at all clear.

Sincerely,

Norman Bleicher, Ph.D.
President

[illegible] 3 letters, [illegible]
— [illegible] undermined
[illegible] can you Get Clearly

One problem I have with the new process is a total lack of communication.

Not Discussed regarding the monitoring. No Back up documents at all

It depends on what ~~[illegible]~~ agency or department you talk to as to what this is

NRCS are told it is [illegible] [illegible] and are now [illegible] [illegible].

Reportedly CPES Training [illegible] is becoming HEL [illegible] as it is.

USAC is identified just on the date that they will begin auditing of HCS regulations.

When we add the [illegible] at state Draft Regulations on 1990, it has been discussed by [illegible] [illegible] [illegible]

[illegible] [illegible] with the [illegible] [illegible] that would have come in and they are using 1402 as it stands for their basis.

Across the vocational community we have consistently been told that 1402 was the law as it stands.

We were under the impression that except for questions of implementation, 1402 was to [illegible] [illegible] 1401-197 which is the Senate bill.

Thank you.

Elaine ~~[illegible]~~ ~~[illegible]~~ [illegible]
[illegible]
[illegible]

[illegible] the specific [illegible] 1402 [illegible] [illegible] ~~[illegible]~~ [illegible] [illegible] ~~[illegible]~~ kept [illegible] [illegible] [illegible]

Issue: Does employment in a job in which the skill taught by a school is incidental to the job "constitute" employment in compliance with 94316.5(j)(2)?

SIERRA HORSESHOEING SCHOOL
RT 1, ROCKING K
BISHOP, CALIFORNIA 93514
619-872-2505

Anna Barajas
California Postsecondary Education Commission
1020 12th Street, 3rd floor
Sacramento, California

Ref: Implementation of SB 190 & AB 1402 6/5/90

Dear Ms. Barajas:

I wrote you recently regarding the refund policy. After consideration I wanted to ad comments regarding another aspect of SB 190 and AB 1402. **VERIFICATION OF GRADUATE EMPLOYMENT**

These bills do not address the aspect of the self employed. Many people take vocational training to work for themselves. This has been totally ignored. Our students, [farriers], usually enter the horseshoeing trade to develop their own businesses. There are no companys that hire farriers. If they are employed, it is incidental to other work, such as cowboys, (Yes, thousands of them still work on ranches all across the country.) guest ranches, resorts, stables etc.

How do these bills relate to these people? Once they shoe a horse for pay is this considered employment? Does this satisfy the employment qualifications for these bills? I certainly believe it does. Many of our students do not know where they will be working until after they graduate. We have requested students to furnish us employment information for years. Most neglect to do this. How do we acquire this information? Our legislatures created this requirement, now they can author a solution as to how we can satisfy it. I have shod horses for over 20 years and never had an "employer". Employment verification for most is unworkable and unfair.

Our school is not unique to this problem. Saddle making, taxidermy, locksmithing etc. schools educate people **primarily** for self employment.

This is a serious consideration for us and demands a reasonable answer and solution.

Sincerely,

W. H Draves

W. H. Draves
Founder

Pacific Western University

600 North Sepulveda Boulevard Los Angeles, California 90049 (213) 471-0306

Received
6/26/90

June 20, 1990

William K. Haldeman
Chief Policy Analyst
California Post-secondary Education Commission
1020 Twelfth Street Third Floor
Sacramento, CA 95814

Dear Mr. Haldeman,

We have reviewed the proposed regulations which apply to institutions approved to operate under California code 94310. In general, we are concerned that the proposed regulations will ultimately eliminate these institutions by forcing us to meet inappropriate standards equivalent to accredited institutions. In addition, the regulations as a practical matter will discourage institutions from offering non-traditional programs, disregarding Assembly Bills 190 and 194 which unequivocally state.

SB 194 pg. 5 Line 24 (3)

> " The standards and procedures utilized by the Council shall not unreasonably hinder educational institutions and competition. "

On pg. 29 line 12 (E) it is explicitly stated, as well as in para "H" pg. 2 of CPEC enclosure #L, and repeated again on pg. 17 of Item #3 and pg. 3 para "G" that:

> " Standards shall not exceed the accreditation standards of WASC."

There is nothing in the regulations to advance innovative education.

We are also concerned that many of the proposed regulations, particularly the standards, are very selective and vague. This creates the danger that the regulations will be interpreted and implemented based on the biases of the visiting team. More importantly, some of the regulations are not reasonably related to evidence of compliance with these standards.

We believe that these regulations are imposing undue expense and burden on private educational institutions (and indirectly on the students).

Article #1, #202 option 1 and 2 place an unfair burden on small institutions to find either board members or an advisory committee to sit without pay and face possible liability. These are not state institutions supported by the tax paying public.

#205, The regulation pertaining to faculty does not apply to many accredited profit and non-profit state and private institutions. This is also a hardship and unfair.

#207, Any business to our knowledge maintains as an asset any receivables due them. To use unearned tuition as liability is contrary to accounting principles.

#209 (C), If an institution is closed, who is going to pay for the transmittal of records to the state? There is no provision in the regulations for an orderly closure of an institution by which it can matriculate students and continue to collect unpaid tuition even though it has been closed by the state. New enrollments should cease and the school should teach out students without draining the student tuition recovery fund and in the interim forward to the state in an orderly manner all documentation required.

#217 para (E), Nowhere in Senate Bill 190 or 194 is there an exclusion on Doctoral programs offered by correspondence schools. This regulation should be eliminated.

Thank you for this opportunity to express our concerns regarding these proposed regulations.

Sincerely,

Philip Forte
President

PF:dg
cc: file

Casa Real, Inc.
Learning Center

June 4, 1990

California Postsecondary Education Commission
1020 12th Street, 3rd floor
Sacramento, CA 95814-3985

Attention: Mr. Wm. Haldeman

Dear Mr. Haldeman:

I wish to express my concerns regarding The Private Postsecondary and Vocational Education Reform Act.

I have the opinion that postsecondary education and vocational training should come under different control from each other. As I understand postsecondary means past the twelfth grade, and vocational training is for anyone demonstrating the ability to benefit from that training.

Casa Real Learning Center provides vocational training in Electronics Assembly and Custodial training, and we do not use financial aid.

All of our students are referred to us by Vocational Rehabilitation Counselors that are employed by Workers Compensation insurance carriers. These insurance carriers pay for the students tuition. This tuition is never paid in advance, so therefore no contribution is ever made to the recovery fund (STRP).

When these same students attend a school that is a "not for profit organization", these schools are exempt from the requirements of SB 190 and AB 1402. However, those same students before they can be enrolled in this school are required to be tested, and all of the other requirements of SB 190 and AB 1402 have to be complied with.

It is my feeling that this is not a fair practice in dealing with a school such as this one, that only deals with contract students and receives no government funding of any sort. Non profit schools are funded by local and federal government and they should be accountable for that money.

All of our students are given a vocational aptitude test by the vocational counselors prior to being referred to any school.

1509 N. Main Street, Suite L, Santa Ana, CA 92701, Telephone: (714) 835-6695

Students with less aptitude are given "on hands" training and information is put on tape for their convenience. These students with less aptitude would become ineligible for training if a standard written test was administered to them.

It is my past experience that these students needing "hands on" training do get jobs as well. Compulsory testing to gain acceptance to vocational training prevents these students from becoming self sufficient in the world of work.

Sincerely,

Louis Gutierrez
Director

LG:mg

IMS

International Montessori Society

Lee Havis
Executive Director

June 11, 1990

California Postsecondary Ed. Commission
1020 12th St., Third Floor
Sacramento, CA 95814-3985

RE: Proposed regulations

Gentlemen:

The Society conducts a postsecondary program for Montessori teacher education in California under the pertinent jurisdiction of the state of California. The proposed regulations, Appendix C for non-degree granting private postsecondary vocational education institutions would therefore affect the successful operation of such program.

The Society specifically expresses its opposition to sections 1210, 1220 and 1230 of Appendix C of the proposed regulations -- sections that would involve so-called "expert advisors" outside of the Coucil and its staff to examine and otherwise function in conjuction with the state's regulatory process.

The only conceivable areas for involvement of these so-called "experts" would be into those areas of the "curriculum" and "program content" of an institution where the Council's own staff is apparently unsuited to inquire. Such examination of curriculum is inherently subjective in such a field as teaching and teacher education -- where there are diverse, conflicting opinions concerning the pertinent issues. Such an intrusion into a program's most sensitive area of "curriculum content" would amount to a system of prior restrain of communication -- i.e., censorship.

There is no provision that the "experts" be approved by the subject institution; but rather the assumption is that the Council will "approve" a list of such outside advisors. Upon what basis, if any, would such an approval be made? "Experts" chosen from currently-approved institutions in a field of expertise would tend to serve the interests of their own point of view on the matter -- resulting in a repression of new and innovative discoveries in the field.

For the above reasons, I urge the Commission to delete the indicated sections relating to "experts". Please allow the free marketplace of ideas to prevail in the field of education -- so that this competition will provide the assurance of real "quality" -- not through a process of repressive censorship.

Sincerely,

Lee Havis

c. CAPPS

Creating the New Education ...
912 Thayer Avenue, Silver Spring, MD 20910 • (301) 589-1127

grams and campus maps to assist in locating these facilities. Indicate whether the buildings are owned, leased or rented short- or long term, or used free of charge.

(k) A description of how educational records are organized, or proposed to be organized, and who is responsible for the records, where the records are stored (department and address) and what institutional policies govern the maintenance and safekeeping of these records.

(l) A complete list of tuition and fees with an indication of which are refundable and which are nonrefundable. Provide a copy of the institution's refund policy and indicate which of the institution's publications contain this policy.

(m) Applications for renewal shall include summary data about the number of students receiving financial aid, the type and sources of this aid, and the total amount by source which students received during the last 12 months.

(n) Scholastic regulations including, but not limited to:

(1) Admission requirements, including level of educational attainment and grade point average, entrance examinations;

(2) Student assessment policies and practices including placement and language ability examinations required and grading policies;

(3) Criteria, policies and procedures for awarding credit for experiential learning; and

(4) Attendance requirements for programs using the classroom instruction mode and standard course assignment schedules for distance learning and correspondence modes of instruction.

(o) Summary of library holdings, services and other learning resources, including policies and procedures for supplying such to distance instruction students.

(p) Summary of student services, including provisions for academic counseling, textbook purchases, and job placement.

Authority: Section 94305(d), Education Code.
Reference: Section 94311, Education Code.

1210 Expert Advisors

To provide special expertise in the review of a vocational institution, the Council director may augment the Council staff's review by appointing one or more expert advisors from a Council-approved list to examine the institution. The expenses of such advisors shall include an honorarium of $350 per day plus travel which shall be reimbursed by the institution as provided in Section 1230.

1220 Duties of the Expert Advisors

The advisors shall evaluate those aspects of the institution and its operations which the Council director identifies as requiring expert review and shall provide a written report to the Council no later than 10 calendar days following the date of the review.

1230 Reimbursement of Expert Advisors

The institution shall reimburse the Council for the Council's costs incurred in engaging an expert advisor. The total reimbursement shall include the advisor's honorarium and travel costs. The rate of reimbursement of travel costs shall not exceed those used by the State for reimbursing state employees on travel status.

1240 Processing Time

(a) Within 30 calendar days after receipt of an application for approval, the Council shall notify the institution in writing either (1) that its application is complete and accepted for filing or (2) that it is deficient and requires specific information or documentation to complete the application. An application is considered "complete" if it contains all the information and documentation required by Section 1200 of these regulations.

(b) Within 180 calendar days from the date of filing of a completed application, the Council shall inform the institution in writing of its decision regarding the application.

Received from Warren Holman, Department of Consumer Affairs
Board of Registration for Professional Engineers
and Land Surveyors - Received 6/13/90

SUGGESTIONS FOR ADDITIONAL REGULATIONS

Introduction.

These regulations are adopted by the Council, in order to implement and make specific the Private Postsecondary and Vocational Education Reform Act, Education Code Sections 94300 et seq.

Location of Offices.

The principal office of the Council is located at ___________, Sacramento 95 . All correspondence relating to the activities of the Council, including applications, renewals and remittances, shall be directed to this office.

Delegation of Certain Functions.

(a) Whenever it is stated in these rules that the "Council" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the Council for Private Postsecondary and Vocational Education specifically has reserved the same for its own, exclusive action.

(b) Whenever it is stated that the "director" may or shall exercise or discharge any power, duty, purpose, function, or jurisdiction, the director of the Council for Private Postsecondary and Vocational Education has the authority to act thereon.

(c) Any party in interest may appeal to the Council for review of the actions and decisions of the director.

(e) Nothing herein prohibits the director from redelegating authority to his/her subordinates as provided in Section 18572 of the Government Code.

(f) The power of discretion conferred by law upon the Council to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas deuces tecum, set and calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the business of the Council in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the director, or to his/her designee.

Meetings.

(a) The Council will normally meet monthly at a time and place within California designated by the chair.

(b) Special meetings of the Council may be called from time to time by the chair when, in his/her opinion, it is necessary. Special meetings may also be called by the director upon a written request signed by three Council members.

(c) All meetings will be noticed in accordance with the requirements of the Bagley-Keene Open Meeting Act (Government Code Sections 11120 et seq.).

Abandoned Applications.

In the absence of special circumstances, any of following actions by an applicant shall be considered to constitute abandonment of the application, and shall result in cancellation of the application with no refund of the filing fee:

(a) Failure to provide additional required information within 90 days following the mailing of a request by the Council's staff; or

(b) Failure to complete all of the requirements pertinent to the approval process for an application within 2 years from the date of filing of the application; or

(c) Failure to adequately prepare for a visit by a visiting team, to the extent that the visit has to be cancelled, unless the visit can be rescheduled to a mutually satisfactory date.

COURTS OULAHAN
ATTORNEY AT LAW
SUITE 307
1730 K STREET, N. W.
WASHINGTON, D.C. 20006
(202) 833-2540

June 25, 1990

LEGAL MEMORANDUM

Subject: Legal Comments and Objections to CPEC's New Proposed Regulations For Approving Degree-Granting Institutions

I. BACKGROUND

1.1. This memorandum and analysis comments upon the proposed regulations dated June 11, 1990, issued by the California Postsecondary Education Commission (CPEC).

1.2. There are two statutes involved. Senate Bill 190, the Private Postsecondary and Vocational Education Reform Act of 1989, was adopted in October 1989 (Cal. Ed. Code, Ch. 3, Pt. 59). The second statute, Senate Bill 194 (Morgan, January 17, 1990) is intended to "clean up" SB 190, and will, according to CPEC's Chief Policy Analyst, replace SB 190.

1.3. This analysis applies the rulemaking standards administered by the California Office of Administrative Law (OAL). A rule not processed by OAL, but used by an agency, becomes an "Underground Regulation," which the Courts will not enforce.

1.4. For example, OAL twice within the last year has disapproved proposed regulations of the Private Postsecondary Education Division (PPED) of the California State Department of Education. (OAL File No. 89-0622-01, dated July 28, 1989, and File No. 89-1208-06R, dated January 12, 1990). The objections made by OAL closely resemble those which are applicable to the proposed CPEC regulations.

1.5. Further, by letter dated November 27, 1989, the California Auditor General reported to the Joint Legislative Audit Committee that PPED "uses its own guidelines which have not been adopted as regulations, to review institutions seeking approval or authorization." (p. 1).

1.6. This means that any adverse action by PPED would not be enforceable in Court. The only valid regulations applicable to PPED-regulated institutions are those incorporated in 5 Cal. Admin. Code § 18800 et seq. (Oct. 28, 1985). PPED's use of any "Underground Regulations" in approving or rejecting institutions seeking authorization or full approval is legaly invalid.

1.7. The situation created by a clear regulatory hiatus with respect to PPED has been known to CPEC since at least early 1989, when SB 190 was initially introduced in the Legislature. The Commission is responsible, among other things, "for advising the Legislature and the Governor on statewide educational policy and funding." (CPEC Rep. 84-28, Introduction, July 23, 1984). In Rep. 87-16 (March 1987), CPEC stated (p. 1):

> "During the past few years, the Commission has been actively involved in the effort to strengthen California's licensure process for private postsecondary degree-granting institutions.* * * "

1.8. The Commission reported to the Legislature on "Recommendations for Revising the Private Postsecondary Education Act of 1977" (April 17, 1989 Draft). By then, SB 190 already had been introduced (January 13, 1989). CPEC staff are believed to have been heavily involved in "advising" appropriate legislators on the provisions of that Bill. The staff continued this "advice" through at least ten different versions of the Bill, through September of 1989, and provided drafting assistance. At least another year's worth of the drafting and rulemaking process is anticipated, until at least the spring of 1991. PPED is being blamed for this regulatory gap--in a situation where it lacks requisite authority. Whether this scenario may provide grounds for claiming the proposed regulations to be "emergency" rules, when the new Council on Private Postsecondary and Vocational Education (hereafter "new Council") assumes authority in 1991, remains to be seen.

1.9. Senate Bills 190 and 194 and the regulations, particularly with respect to school/student relations, impose what the California legislation has called an "unnecessary regulatory burden on private individuals and entities." Cal. Code Anno., Government § 11340.1 (1981)(legislative intent).

1.10. Further, SB 190 and 194, and the proposed regulations, raise serious constitutional and other legal issues under Federal and California law. E.g., Hays v. Wood, 160 Cal. Rptr. 102, 108-14 (Cal. 1979)(en banc)(different monetary thresholds for different professional lobbying groups violated equal protection). Rights of equal protection, as between fully approved institutions such as CPU and WASC-accredited institutions, seriously jeopardize the validity of the proposed regulations, as well as the statute. For example, this occurs under the following sections:

A. § 100 - use of name of "university," faculty (adjunct versus full-time), "innovative" institutions, and governance and administration (destroying rights under corporate law)

B. §§ 204-205 - faculty and instruction

C. § 207 - financial standards

D. § 213 - undue restriction of transferable and experiential credits

E. § 217 - courses for license preparation

Further, § 600, Conditions and Procedures for Probation, violates California hearing procedures and due process.

1.11. The overall legal effect is to make second-class educational citizens out of non-accredited institutions, to destroy the right to issue master's and Ph.D. degrees, held since at least 1986 by CPU and other institutions, and essentially to increase the quasi-monopoly now held by WASC-accredited institutions in California higher education.

1.12. Either CPEC and/or the Attorney General should initiate negotiations with representatives of private degree-granting institutions covered by SB 190. They have done that with vocational institutions under AB 1402. SB 190's discriminatory policy appears to extend to steps by which undue expense and legal action might be avoided.

II. CALIFORNIA OAL STANDARDS

2.1. The California Office of Administrative Law (OAL) administers six standards for use in passing upon the legality of proposed regulations. Cal. Code Anno., Government, §§ 11349, 11349.1 (1985). This statute is implemented by regulations which interpret the standards. Cal. Admin. Code, Title 1, § 14 et seq. (Reg. 87, No. 52, Dec. 26, 1987).

2.2. The "necessity" standard requires "substantial evidence [of] the need for a regulation," shown by "facts, studies, and expert witnesses." Cal. Code Anno., §§ 11349(a) and 11349.1 (a)(1).

2.3. The "authority" standard requires that a statute "permits or obligates the agency to adopt . . . a regulation." Id., §§ 11349(b), 11349.1(a)(2); Cal. Admin. Code, Title 1, § 14(a).

2.4. The "clarity" standard requires that "the meaning of regulations will be easily understood by those persons directly affected by them." Cal. Code Anno., §§ 11349(c), 11349.1(a)(3). This standard means, Cal. Admin. Code, Title 1, § 16(a):

> "(1) the regulation, on its face [must not] be reasonably and logically interpreted to have more than one meaning . . . , or
>
> "(2) the language of the regulation [must not] conflict with the agency's description of the effect of the regulation. . . . "

2.5. The "consistency" standard requires that the regulation is "in harmony with, and not in conflict with or contradictory to, existing statutes, current decisions, or other provisions of law." Cal. Code Anno., §§ 11349(d), 11349.1(a)(4).

2.6. The "reference" standard requires "a statute, court decision, or other provision of law which the agency interprets or makes specific by adopting . . . a regulation." Id., §§ 11349(e), 11349.1(a)(5).

2.7. The "nonduplication" standard means that the agency "must identify any state . . . statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication." Id., §§ 11349(f), 11349.1(a)(6).

III. OBJECTIONABLE PROPOSED REGULATIONS

A. Rule Art. 1, § 100(d), "Degree-Granting Institutions"

3.1. By this regulation, the competition by unaccredited fully approved institutions with those which are WASC-accredited is adversely affected. The definition of "university" requires at least three organizational units, including a "college" for BA's or BS's.

3.2. The definition fails to meet five of the six OAL standards, as follows:

(a) Necessity - no need for the regulation is established or exists. The only palpable reason is, by this rule, to protect accredited "universities" from competition by non-accredited institutions.

(b) Authority - the general rulemaking provision in S.B. 190, § 94305(d) and 194, § 94305(c), does not extend to provisions which are inconsistent with other regulations or the standards. Indeed, Section 94310(d)(3) of SB 190 bars regulations which "unreasonably hinder educational innovation and competition."

(c) Consistency - the definition is inconsistent with the policy put forward in § 94305(c) of SB 190.

(d) Reference - CPEC can point to no specific statutory provision which permits regulatory differentiation between universities and colleges.

e) Nonduplication - the rule duplicates, and in fact overrides, provisions of California law with regard to CPU's use of its name. The definition also overrides CPU's full approval as a university since 1986.

3.3. Any action by the new Council under this definition adverse to CPU implicates Federal and California constitutional provisions for equal protection and the taking of property (i.e., CPU's name), without due process of law.

B. Rule Art. 1, § 100(g), "Faculty" or "Faculty Member"

3.4. The statute does not authorize a demarcation of "faculty" between full-time and part-time faculty members. See, SB 190, 194, § 94310(a)(2). The definition is inconsistent with the use of the terms "faculty" and "full time faculty" in Rule Art. 2, § 205(e).

3.5. This definition fails to meet the following OAL standards:

(a) Necessity - the statute establishes no necessity for this provision. Indeed, necessity would dictate that adjunct faculty should be permitted to continue their widespread and valuable role in educational institutions.

(b) Authority - there is no provision of law which permits or requires the gutting of part-time positions at institutions such as CPU, where this system has been authorized or fully approved since 1978.

(c) Consistency - the definition is inconsistent with Rule Art. 2, § 205, and with SB 190, 194 § 94301 ¶ 2, which requires recognition of "the enormous diversity of California private postsecondary educational enterprise."

(d) Reference -- no specific statutory provision can be referred to as requiring implementation by the rule.

C. Rule Art. 1, § 100(1), "Innovative Methods"

3.6. This definition guts the clear legislative intent that among the "enormous diversity of California private postsecondary educational enterprise," SB 190, 194, § 94301 (¶ 2), there would be institutions with "educational innovation." Id., § 94310(d)(3). The evaluation of such innovative institutions would require "educators . . . familiar with and receptive to evidence bearing on the educational quality and accomplishments of these methods." Id., § 94310(d)(2).

3.7. The definition also guts the distinction between the three types of "instruction" provided in Rule Art. 2, § 204. Under the definition, "correspondence" and "distance" instruction are to be judged and treated the same as "classroom" instruction. In one fell swoop of five lines, CPEC has removed the protection which the Legislature intended to prevent "correspondence" and "distance" learning being swallowed up and destroyed by traditional "classroom" education.

3.8. The regulation violates the following OAL standards:

(a) Necessity - none exists to destroy or hinder non-traditional education. Rather, necessity demands its continuation.

(b) Authority - none exists in the statute to warrant the proposed regulation.

(c) Consistency - the proposed rule is inconsistent with the statutory provisions cited above in Paragraph 3.6.

(d) Reference - the statute contains no provision which is implemented by this rule.

D. Rule Art. 1, § 120, "Substantive Change"

3.9. This rule establishes the legal concept of "substantive change," nowhere authorized or referred to in the statute. Items 2 and 5 are the only items subject to notice in the statute.

3.10. CPEC apparently intends that the list of "substantive changes" will expand, since the present list is not conclusive. The requirement of notice by an institution would be expanded without statutory warrant.

3.11. The following OAL standards are not met:

(a) Necessity - none is cited. None exists in the statute.

(b) Authority - none is cited. None exists in the statute.

(c) Consistency - none is cited. None exists in the statute.

(d) Reference - none is cited. None exists in the statute.

E. Rule Art. 2, § 201, "Mission, Purpose, and Objective"

3.12. The proposed text misstates an important element of an institution's mission statement, violating OAL's "clarity" standard. Such a statement is not intended to "differentiate . . . it [the institution] from other educational institutions." The correct language comes from WASC's 1988 Standards, ¶ 2A, p. 15, which reads:

> "The institution is guided by clearly stated purposes that define its character, [and] are appropriate to higher education . . . . " (emphasis added).

F. Rule Art. 2, § 202(a),(h), "Governance"

3.13. The regulation requires at least five directors. This exceeds and overrides the three-member requirement under California for-profit and non-profit corporation law. Cal. Code Anno., Corporations, § 212(a) (1977). The regulation violates OAL standards of "consistency" and "nonduplication."

3.14. Overlapping directors are permitted and used usually by large corporations. To enforce this system would require at from 5 to 7 directors. This requirement does not meet the OAL "necessity" standard.

3.15. No proprietary or non-profit institution now is required to have twenty percent of its board absolutely "independent" of the corporation. No "authority" for this rule exists.

F. Rule Art. 2, §§ 204, 205, "Faculty, "Instruction"

3.16. These regulations are designed for institutions with classroom instruction. Their alleged application to correspondence and distance instruction institutions are not based on reasonable necessity or educational policy.

3.17. To require at least three full-time faculty members to supervise one student's instruction ignores the use of adjunct faculty by correspondence and distance learning institutions. Indeed, for every overseas student of CPU, there usually is one mentor (part-time) who initially supervises the study project and meets with the student in his or her country of residence.

3.18. To require a six-day turn around time in such circumstances, or even when a student corresponds directly with CPU, would place an impossible and unrealistic burden on the system. To require record keeping on turn around time for several thousand students, subject to verification by a visiting team, may be the ultimate in bureaucratic repression.

3.19. Section 205(c), in effect, requires faculty to have degrees from accredited institutions. No mention is made of degrees from fully approved institutions which, under the 1977 Act, as amended in 1984, are "comparable" to degrees from accredited institutions. This section deprives the degrees from fully approved institutions of the standing which they now have, and have had since 1984. These degrees must be grandfathered. This can be done by adding the following language, after the word "institution" in line 5:

"or from an institution fully approved under California law."

3.20. Both regulations violate OAL standards:

(a) Necessity - none exists or can be, based upon the statute. All that the statute requires is that faculty are qualified to give instruction and have appropriate degrees. SB 190, 194, § 94310(a)(7) and (i)(1)(B).

(b) Authority - none exists, based upon the statute.

(c) Reference - the source of the figures used, including faculty/student ratios, is unknown.

G. Rule Art. 2, § 207, "Financial Resources"

(1) Board "Guarantee"

3.21. The claimed justification for this rule is SB 190, 194, § 94310(i)(1)(A):

> "The institution has financial resources to ensure the capability of fulfilling the program or programs for enrolled students."

See also, id., § 94311.5(b).

3.22. To require each member of an institution's board to "guarantee . . . the assets sufficient to ensure that all students admitted to its degree programs shall have a reasonable opportunity to complete their program and obtain their degree" (Rule Section 207, Instruction) is an impossible and outrageous burden to place on directors or trustees. No insurance or bond could be acquired to protect such board members from this unliquidated claim.

3.23. The "guarantee" requirement violates present California corporation law. Under that law, directors or trustees can be indemnified. Cal. Code Anno., Corporations, § 204.5(a) (1982). They are not liable for corporation debts. Id., § 5047.5 (1988). See, Zumbrun v. University of So. Cal., 101 Cal. Rptr. 499, 504-06 (Cal. App. 1972).

3.24. Articles of Incorporation can eliminate the claimed liability of directors for corporate debts. Cal. Code Anno., Corporations, § 204.5(a) (1982). This provision would be overridden by the proposed regulation, contrary to OAL standards. Further, indemnification by a corporation under California Corporations Sections 317 and 924 (1977, 1982) probably would not apply to the "guarantee." A prudent lawyer would advise his client not to become a member of an institution's board if required to give an unliquidated guarantee of this kind.

(2) "Financial Resources"

3.25. Under Rule § 207(a)(2), "'[c]urrent liabilities' shall include unearned tuition." "Fund accounting" (see, SB 190 § 94311.5(b)(3)) is not the general accounting system applicable to for-profit institutions. The standards applicable to for-profit corporations permit a cash basis for financial operations, as opposed to the accrual basis.1/

1/ On that basis, the "statement of current funds revenues, expenditures, and other changes is a statement of financial activities of current funds related to the current reporting period. It does not purport to present the results of operations or the net income or loss for the period as would [a for-profit corporation's] statement of income or a statement of revenues and expenses." Audits of Colleges and Universities (AICPA) Industry Audit Guide (2d ed. 1975) at 68.

3.26. The requirement of a 1.25 to 1 ratio for assets to liabilities is not required by WASC in its 1988 Standards, or by the AICPA Industry Audit Guide.

H. Rule Art. 2, § 208, "Administrative Personnel"

3.27. If it were not proposed by CPEC, the requirement that the institution's "chief academic officer," who could be its President, "must hold a degree equal to the highest degree required of the faculty . . . " , would reach the realm of nonsense. Not even Harvard or Yale attempts to meet such a requirement. Obviously, this rule falls short of meeting the OAL standards.

I. Rule Art. 2, § 209(c), "Educational Records"

3.28. The requirement that student records be preserved by an institution for fifty years can't possibly meet the "necessity" and "authority" standards of OAL. It imposes extravagantly heavy and unnecessary costs on an institution. The statutory requirement is only five years. SB 190 § 94319.5.

J. Rule Art. 2, § 213, "Scholastic Regulations and Graduation Requirements"

3.29. Although authorized to enact regulations on scholastic and experiential credits, this regulation exceeds that authority when it decrees that no experiential credits can be used for post-baccalaureate degrees. § 213(d). The same is true of § 213 (e), which limits or excludes academic credits from another institution in the granting of master's or Ph.D. degrees.

3.30. The only conceivable reason for the foregoing provision is to assure the financial well-being of the institution which eventually grants a master's or Ph.D. degree. The student is adversely affected because, in many cases, he or she will have to start all over again at a California institution. Such a deterrent is unnecessary and contrary to public educational interest. The rule does not meet any of the OAL standards.

K. Rule Art. 2, § 215, "Library and Other Learning Resources"

3.31. Section 215(c) requires that alternative library facilities be located no more than fifteen minutes from the institution's premises or the student's address. This requirement is impossible for some institutions to meet. E.g., CPU is about forty minutes from library facilities at the University of San Francisco.

3.32. The proposed regulation obviously is designed to affect adversely those fully approved institutions without separate libraries. Not even all WASC-accredited institutions meet this requirement--but they are exempt from the regulation. See, WASC 1988 Standards, Part Six. This rule does not meet any OAL standards.

L. Rule Art. 2, § 217(d) and (e), "Degrees Offered"

3.33. Subsection (d) discriminates against institutions using distance learning or correspondence instruction in degrees which "imply preparation" for licensure in a "direct practitioner-client therapeutic relationship." Subsection (e) discriminates by barring doctoral programs from being offered by correspondence instruction. This discrimination is blatant and clear. The sole beneficiaries are the faculties of classroom instruction institutions.

3.34. The language in Subsection (d) ("imply preparation for licensure . . . ")(emphasis added) is unclear, and violates the OAL standard of "clarity." The "necessity" and "authority" standards are not met. The statute contains no provision which would deprive a fully approved institution such as CPU of its degree-granting authority.

M. Rule Art. 4, § 410, "Application and Approval Process"

3.35. Rule 410(f) requires disclosure of "an indication of the financial involvement, if any, in the institution each member of the board has." The term is unclear. Does it mean stock ownership, receipt of salary, providing banking or similar services, or what? The term is objectionable under the OAL "clarity" standard.

N. Rule Art. 4, § 440, "Reimbursement of Site Visit Expenses"

3.36. Section 440(a) requires an instituton to prepay 90% of a visiting team's costs. There is no requirement that its costs be reasonable. The requirement that an applicant must file a new application and pay a new fee, if the deadline for the 90% deposit is not met, is outrageous and unwarranted. There is no authority in the statute for this. OAL standards of "necessity" and "authority" are violated. One might suggest a penalty for the Council or for team members, if a team visit is not made when scheduled.

O. Rule Art. 6, § 600, "Probation/Revocation ot Approval"

3.37. This rule violates SB 190, § 94330(l)-(m). That statutory provision requires that hearings for revocation, denial, or approval shall be conducted as for a contested case under the Administrative Procedure Act. A licensure proceeding requires use of an Administrative Law Judge, notice, discovery, decision, and judicial review. Cal. Code Anno., Government, §§ 11505-11523 (1989).

3.38. However, SB 194, § 94330(l)-(m), does not contain the requirement for hearing under the Administrative Procedure Act, with judicial review. As of January 1, 1991, institutions which theretofore had such a right will be afforded only an "informal" hearing before the new Council, without the procedural safeguards of SB 190.

3.39. This legislative sleight-of-hand is accomplished by removing the new Council from the State Department of Education. SB 190 and 194 § 94306(e). Under the Administrative Procedure Act, the Department must comply with the formal hearing requirement now applicable to all private institutions through December 31, 1990. Cal. Code Anno., Government, § 11501(b). The new Council is not on the statutory list.

3.40. No explanation of the provisions of SB 194 is contained in the materials furnished by CPEC. Its legislative legerdemain can be ascertained only by careful review of all relevant statutes--a review which CPEC undoubtedly does not want to encourage.

3.41. The original language of SB 190, § 94330 (1) and (m), should be stated in the rule, as well as in SB 194.

Courts Oulahan

Courts Oulahan

CO/wch

Received
6/26/90

SHASTA ABBEY

HEADQUARTERS OF THE ORDER OF BUDDHIST CONTEMPLATIVES
(SŌTŌ ZEN)
3612 SUMMIT DRIVE, MOUNT SHASTA, CA 96067
REV. RŌSHI JIYU-KENNETT, ABBESS

PHONE 916: 926-4208

POST OFFICE BOX 199

June 22, 1990

Mr. William K. Haldeman
California Postsecondary Education
Commission
1020 Twelfth St., 3rd Floor
Sacramento, CA 95814-3985

Dear Mr. Haldeman,

Thank you for our telephone conversation of Friday, June 15. As you requested at that time and as was requested in your June 4 memorandum, we are writing you with our comments on the draft regulations implementing SB 190 and AB 1402.

For a little background, which might help to put our comments into perspective, we are a monastery and seminary for the Buddhist priesthood with current state approval under Section 94311(d). We charge no tuition or fees of any kind. We have never charged tuition, but in the past we have asked students to pay for books, monastic garments, etc. Those fees tended to be minimal, especially over the life of a student. Currently we are not even charging room and board once a student has matriculated, i.e., once a person has been ordained and become a novice monk. It is our hope that we will continue to be able to support our students in this way. Our program is essentially a 7-year program divided into the basic Parish Priest certificate program which lasts a minimum of 5 years followed by a Teacher of Buddhist program which lasts an additional minimum of 2 years. All of our faculty are graduates of our program. For further information please find enclosed a copy of our last seminary catalog. This is our current attempt to explain our program in the language and format required in 94311. It probably contains more details than you will need but may be useful.

Now, moving into our comments on draft regulation 202: in particular, sections (a) and (b) present, at the moment, the greatest stumbling block for our participation under the new Section 94310 of the Education Code. As I mentioned to you on the phone, this section rather than 94311, seems more appropriate for what we are trying to do. We do not, however, currently fit either one, as written, very well. Nevertheless, draft regulation 202 makes it impossible for us to even apply. For religious purposes, we are incorporated with a Board of Directors of one -- our Abbess, who is our spiritual and administrative director. For religious reasons we do not wish to expand our Board of Directors. In fact we have occasionally considered returning to a Corporation Sole, as which we were originally formed.

There is at present an advisory committee to our Board of Director(s), which is composed of five of our most senior officers. See 202(b), option 2. It would however probably not be truthful to say that our advisory committee has "no financial involvement with the institution," since all members of the committee, as well as all monks, receive room and board and one of the advisory committee members receives a stipend of $35 per month. This stipend is available to any of our faculty members with financial need. We are starting to try to provide some form of health insurance to all of our monks (both faculty and students) although individuals who can afford to, pay their own. This is the basic remuneration for our faculty members. Does this constitute financial involvement for our advisory committee under 202(b) option 2? Also, our reviews of institutional policies, budgets, and operations are usually delivered orally at Board meetings, although at those times, minutes are always taken.

As for option 1, for this to be relevant to us it seems that 20% of a reconstituted Board would have to be lay people. From the way option 1 is worded it is not clear to me that it would be satisfactory for those lay people even to be our congregation members, let alone our lay ministers. It is completely within Buddhist tradition for the monastic community to direct its own affairs. Since Buddhism is relatively young in the West, and we have still not fully worked out the proper Western expressions of our 2500-year-old monastic tradition, and since our institution is solely for the education of the Buddhist priesthood, we are very reluctant to be forced to have lay participation on that Board.

Draft regulation 205(c) is a little worrying as written since the primary evidence of appropriate training for our faculty is now satisfactory completion of our program. Since we are not an accredited institution and since some of our current faculty have not received a Bachelor's degree from an accredited institution, this section as written could pose problems for us. I can assure you that after completion of our rigorous 7-year program, our students are qualified to teach. The first sentence, however, of 205(c) seems completely appropriate and I feel that we could convince a visiting review committee that our faculty is indeed qualified. Continuing on 205, I have no idea of how (i) might apply to us nor how we would implement it.

Is there anything in 209(a)(3) that would prevent us from using a pass-fail system for all of our grading? There are times when grading our students for what is essentially religious understanding seems particularly inappropriate. Our students simply continue a program until they have mastered it, which is why we give a minimum length of time for completion of our two programs.

Was 210(g)(4) intentionally omitted?

We see potential complications for draft regulation 213(d) as written, assuming in fact that we would be classified as offering a post-baccalaureate degree program. We have on occasion and would prefer to continue to be able to offer credit for prior religious training. This may be especially appropriate for example for one of our long-term lay ministers (who may not even have gone to college) who decides to enter our monastic program, i.e., become a student. This will shortly bring me to discussion of how appropriate it is to use the word "degree" for the credential that we offer for our programs. You may remember that we discussed this on the phone. First, however, moving to 216(b), we would feel it inappropriate to allow students in our first program to convene an unsupervised study group. We sometimes allow this for participants in our second program. Meditation and our Preceptual practice are extraordinarily difficult to learn properly, and it is very easy, during this learning process, to make mistakes. We have found that the only sure way to learn is to be guided in the process by someone who is experienced in our practice, and to avoid picking up the mistakes of other new learners.

Moving to draft regulation 217, I agree with you that using the word "degree" for the final result of the programs we offer may not be particularly appropriate. I do believe, however, that first and second professional degree is significantly more apposite than, for example, a vocational certificate as in Section 94311. Calling ourselves a vocational institution, especially as ours is a 7-year program, is misleading and inappropriate. In fact because of this confusion, we have already had a difficult disagreement with the Immigration and Naturalization Service over the type of student status that we might sponsor. At the end of several years of negotiation and explanation we were finally returned to certification as an F-1 (academic) school. We would really prefer to avoid this kind of confusion in the future. If you can think of any other description for the kind of certification we offer, especially one that would allow us to voluntarily participate in state approval under Section 94310, I would very much appreciate hearing from you.

Finally, moving on to Appendix C: we have very few problems with the proposed regulations here. I simply have a couple of short comments. I am assuming that 1130(a)(4) should end with "or" rather than "and." Also, I am assuming that 1160(c) would only apply to an institution charging tuition or fees.

As I mentioned to you over the phone, it has so far proved impossible for us to receive accreditation since the Western Association of Schools and Colleges won't deal with us because we provide religious, rather than academic, education and the American Association of Theological Schools won't consider an application from us because we are not Christian or Jewish. It is our hope that through state approval we would gain the kind of recognition that accreditation implies which would then protect our students and our institution from governmental and public misunderstanding.

Sincerely,

Rev. Rokuzan Kroenke
Executive Secretary

RYOKAN COLLEGE
12581 VENICE BOULEVARD, SUITE 202, LOS ANGELES, CA 90066, (213) 390-7560

DATE: June 18, 1990

TO : William K. Halderman, Chief Policy Analyst
California Postsecondary Education Commission

FROM: Alvin P. Ross, President
Ryokan College

SUBJ: Rebuttal to Proposed Regulations For Approving Degree-Granting Institutions.

1. Section 100 Definitions

(h) This section clearly delineates a "Full-time" faculty member. What about "Part time" faculty members? Not "adjunct", as defined in Section 100 (g), but permanent part-time personnel who teach at many schools.

At Ryokan College where our students are adult learners we find that they are best taught by practicing professionals rather than professional teachers. Like the law school bringing in attorneys to function as part-time teachers and the medical school utilizing physicians as part-time teachers we hire professional clinicians to teach psychotherapy programs.

2. Section 202 Governance

(g) At my institution, since ALL the faculty are working professionals -- clinicians -- who teach part-time, one, or in rare cases two evenings a week, it would be impractical and unrealistic to get the faculty to actively participate in the College's governance.

Our faculty is encouraged to voice opinions, to meet collectively with the administration a minimum of 4 times each year, and to provide input regarding the creative planning of the educational programs.

However, both the faculty and the administration are restricted from major curriculum development by the core curriculum established and mandated in State law by the State regulatory agencies for licensure as Marriage, Family and Child Counselors and as Psychologists (B.B.S.E. and the Board of Psychology).

We encourage, promote and elicit faculty advice in regard to our academic program. We carefully consider implementation of their recommendations even when those recommendations go beyond State regulations and codes to enhance the quality of our academic offerings and promote the growth of our students.

When staff vacancies occur, we encourage our chair people to inform the faculty of such openings and elicit the names of applicants they wish to recommend.

However, since our teachers are employed by the College part-time and are otherwise fully engaged in attending to other major professional responsibilities, we cannot reasonably expect or require them to devote the great amount of time and effort (outside of their teaching assignments) it takes to participate fully in the entire delivery system of the College (i.e., admissions, personnel, student affairs, etc).

3. Section 205 Faculty

(a)(1) I question the proposed ratio of 25 to 1 FTE students to faculty.

At Ryokan College, the fact is that our ratio is more like 15 to 1 since we emphasize small classes and what we call participatory education. Our average class size is 10 students with a maximum allowable of 15 students per class.

My concern is with the Council imposing any set, inflexible, formula on the schools. Can the State colleges and universities with classes of 100, 200 and more (often instructed by teaching assistants and research assistants) meet that criteria? Can the WASC schools meet those standards?

I remind you that both SB 190 and SB 194 clearly state, "It is the intent of the legislature that the minimum standards for approval for degree-granting institutions established by the Council shall not exceed the accreditation standards adopted by the Western Association of Schools and Colleges."

(d) Among our total faculty of 32 part-time teachers 26 hold earned doctorates and 13 of those are from regionally accredited institutions. Of the 10 teachers assigned to our doctoral program 6 have earned doctorates from regionally accredited schools and 4 have doctorates earned from California's 94310.2, State approved institutions.

Is it CPEC's recommendation that the Council disenfranchise the degrees earned at 94310.2 or 94310 (b) schools? Or to preclude a school from hiring a recognized authority, who may possess no degree, but is world renown for his/her skills, talent, knowledge?

(e) In this paragraph the report refers to both a full-time and a part-time faculty. Yet, as stated previously, part-time faculty were neither defined nor identified.

At Ryokan College some teachers have been members of our part-time faculty for as long as 12 years. Some teach in successive years and others may teach one year and then not teach again for two or three years. With the freedom to pick and choose the best possible instructors to meet the State mandated core curriculum as it occurs we produce students who prove, through the State licensing examinations, that their learning outcomes are equal or better than their student peers from the regionally accredited schools.

Why burden us with faculty hired for two successive academic years? Why impose a move away from excellence to mediocrity with such a barrier?

4. Section 210 Refund Schedule

(g)(2) The suggested refund policy stated in this Section is obviously designed for schools where the "term" tuition is paid in full upon enrollment. Otherwise, how could a school refund "90% of term's tuition"? When a student is paying incrementally and has only paid 10% of the tuition due the school could hardly be expected to refund 90%!

It is important that the word "term" be redefined. As it is defined in Section 100 (o) it is not applicable to a school, such as Ryokan College, where the students enroll for a program of 17 months or 24 months duration. Our students pay as they go on a long term contract of either 17 months (the M.A. program in Counseling Psychology) or 24 months (the 24 month program in Clinical Psychology). These are classroom programs and we, like all degree-granting institutions with residential programs, incur the heaviest financial burden during the initial period of a student's residence. During the first months of residence these costs involve:

Admissions processing
Transcript evaluation
Individual Counseling
Development of a curriculum plan
Negotiation on tuition payments
Establishment of fiscal records
Establishment of a student file
New Student Orientation

Our experience shows that frequent counseling/questioning conferences are requested, by the student, through the first three (3) months of their 17 month long or 24 month long programs. By the fourth month things slow down to a routine maintenance of their records:

Monthly distribution of evaluation forms to faculty
Monthly distribution of evaluation forms to students
Monthly logging of submitted evaluations
Monthly filing of processed evaluations
Monthly tuition billing
Maintenance of fiscal records and bookkeeping
Maintenance of academic records and transcripts

Therefore, administrative costs are heaviest during the first few months of a student's residency. Once the student is in the pipeline the administrative costs average out at approximately 25% of the costs incurred during the first few months.

On the other hand, teaching costs are on the same level throughout the program, with very few exceptions. With the small classes which we feature at Ryokan the teaching costs, per student, exceed that which would occur with classes of 20, or 40, or more students. With our teaching costs of $100.00 per student per month (Classes of 6, 8, 10 and at maximum 15 students) and high initial months administrative costs we would be seriously impacted by the proposed 90%, 75%, 60% scale.

To illustrate this point, I have attached two charts that clearly demonstrate the negative fiscal impact such a refund policy could impose on a school such as Ryokan College.

I urge you to reconsider this policy recommendation and bear in mind the intent of the legislature that standards set for 94310 degree-granting institutions should not exceed the standards of the WASC schools.

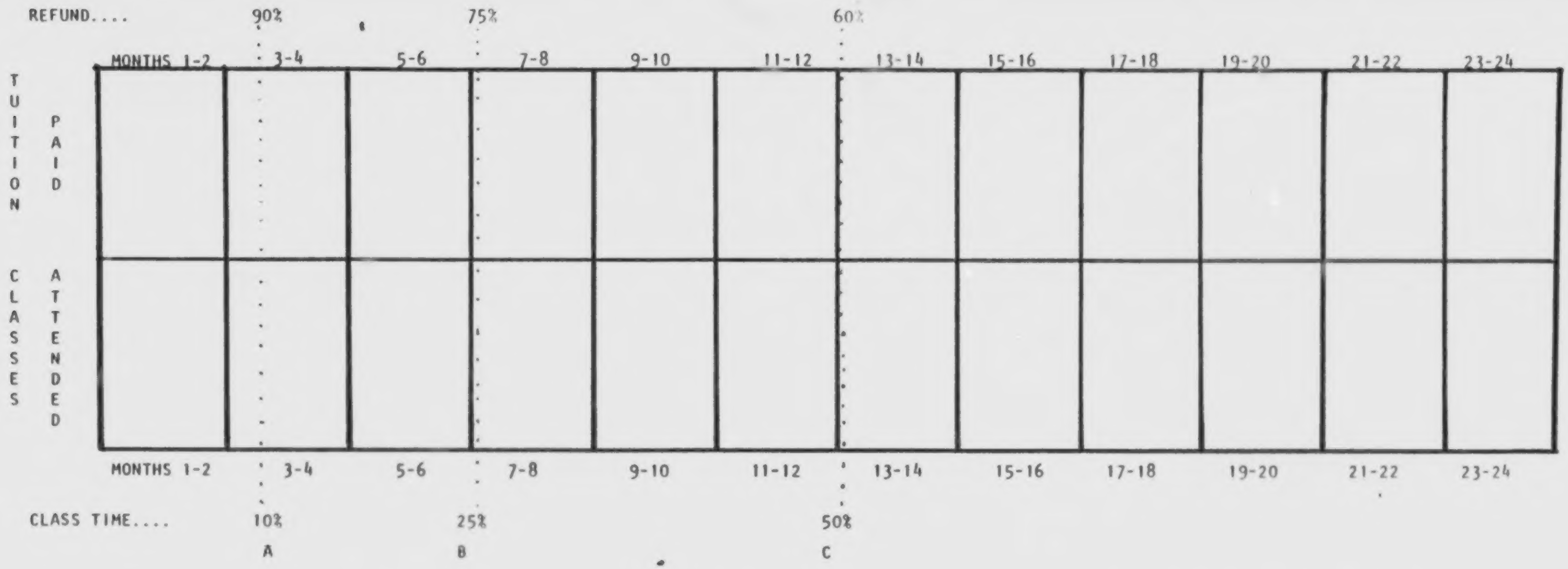
5. Section 215 Library

(c) While we maintain a small core library, video library, and media equipment for the use of our faculty and students, we encourage our students to utilize the excellent library facilities that abound in this area. Our school is just 5 miles from U.C.L.A. and our students all carry U.C.L.A. library cards. Ryokan College conducts tours, periodically, through the U.C.L.A. library system and reimburses our students for the $24.00

annual cost of purchasing a U.C.L.A. library card.

Why should we, as recommended in the proposal, employ the "regular services of a professional librarian........"?

In closing I humbly request and strongly urge that you and the staff at CPEC do what the "scope of the project" intends to do -- that is, be responsive to the comments and criticism of the schools who are effected by these proposed regulations. I sincerely hope that your final draft of the proposed regulations will allow the degree-granting schools to exist without undo fiscal impact or denial of due process.

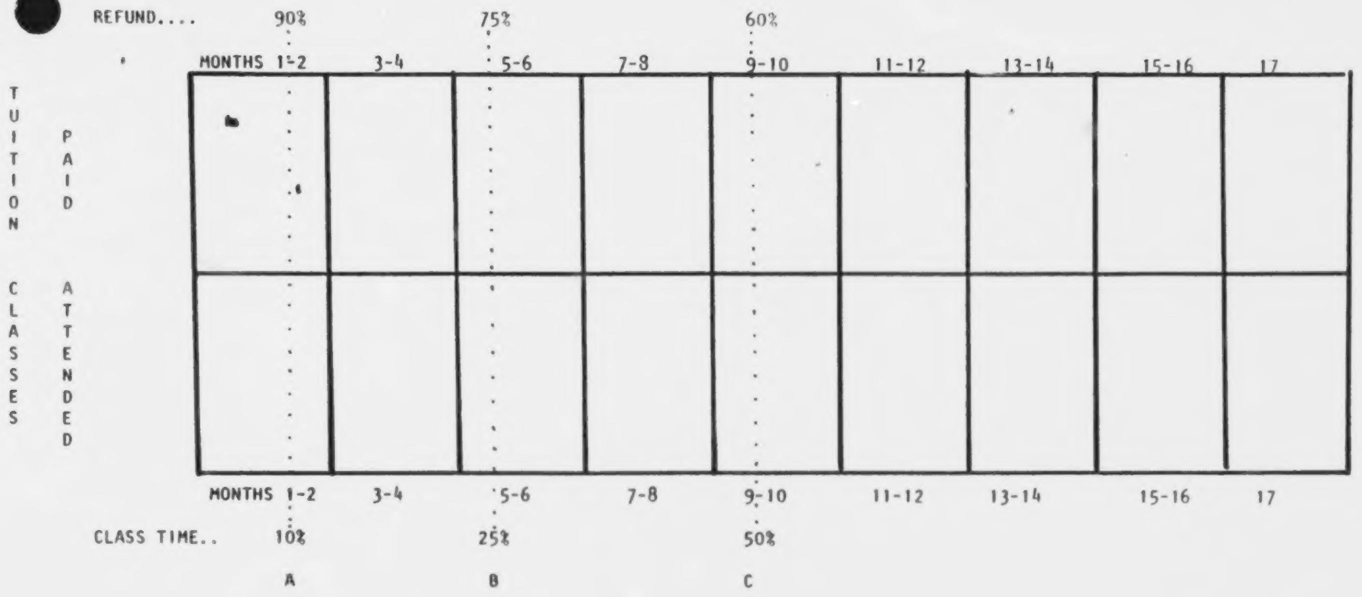


THIS CHART IS REPRESENTATIVE OF THE INSTITUTION'S 24-MONTH PROGRAM IN CLINICAL PSYCHOLOGY LEADING TO THE PSY.D. DEGREE. STUDENTS ENROLL FOR AND CONTRACT TO PAY FOR THE ENTIRE PROGRAM OVER A 24 MONTH PERIOD. TUITION --$10,800.00. TEACHING COSTS -- $100.00 PER STUDENT PER MONTH.

At point A the student has paid a $1,208.00 enrollment payment + $436.00 (monthly assessment) for a total of $1,644.00 or 15% of the total tuition. The student has received 2.4 months of instruction. To refund 90% of the $1,644.00 paid would mean returning $1,479.00 to the student. With teaching costs of $250.00 for 2.4 months the school would be left with a negative balance and no allowance for administrative costs or the burdens of operation.

At point B the student has paid a total of $3,388.00 or 30% of the total tuition due. The student has received 6 months of instruction. To refund 75% of the $3,388.00 or $2,541.00 would leave a balance of $847.00 and after teaching costs of $600.00 the school would realize $247.00 to cover 6 months of administrative costs and overhead. Another negative balance.

At point C the student has paid a total of $6,004.00 or 55% of the total tuition due. The student has received 12 months of instruction. To refund 60% of the $6,004.00 or $3,602.00 would leave a balance of $2,402.00 and after teaching costs of $1,200.00 the school would have the sum of $1,202.00 to apply to administrative costs and operational burdens which average $1,500.00 per student per 12 month calendar year. A negative balance of $298.00.



THIS CHART IS REPRESENTATIVE OF THE INSTITUTION'S 17-MONTH PROGRAM IN COUNSELING PSYCHOLOGY LEADING TO THE M.A. DEGREE. STUDENTS ENROLL FOR AND CONTRACT TO PAY FOR THE ENTIRE PROGRAM OVER A 17 MONTH PERIOD. TUITION -- $7,200.00. TEACHING COSTS -- $100.00 PER STUDENT PER MONTH.

At point A the student has paid a $1,200.00 enrollment payment + $375.00 (monthly assessment) for a total of $1,575.00 or 21% of the total tuition. The student has received 1.7 months of instruction. To refund 90% of the $1,575.00 paid would mean returning $1,417.00 to the student. With teaching costs, for 1.7 months of $200.00 that would leave us with a negative balance and no allowance for administrative costs, or the burdens of operation.

At point B the student has paid a total of $2,700.00 or 37% of the total tuition due. The student has received 4.2 months of instruction. To refund 75% of $2,700.00 or $2,025.00 would leave a balance of $675.00 to the school. After payment of $400.00 for teaching costs the school would retain a total of $275.00 to cover administrative costs and overhead -- hardly enough to pay for the student's per capita share of the operational burden of rent, utilities, insurance, etc. A true negative balance.

At point C the student has paid a total of $4,200.00 or 60% of the total tuition due. The student has received 8.5 months of instruction. To refund 60% of $4,200.00 or $2,520 would leave a balance of $1,680.00 to the school. After payment of $850.00 for teaching costs the school would retain a total of $830.00 to apply to administrative costs and operational burdens which average $1500.00 per 12 month calendar year. A negative balance of $232.00.